446.

SUPREME COURT OF THE UNITED STATES.

No. 86.

WILLIAM B. LAWLER, APPELLANT,

vs.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, NATHANIEL F. MILLER, DAVID H. CONKLING, AND HENRY STONE.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF MINNESOTA.

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Territory of Minnesota—in Supreme Court.

Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone, Respondents,

against

William B. Lawler, Thomas F. Hayes, and Lorenzo Snow, partners under the name and firm of "Hayes & Snow;" Phineas Freeman, surviving partner of the late firm of "Charles P. Freeman & Co.;" Lynn Starling, George W. B. Cushing, Benjamin A. Hegeman, partners under the name and firm of "Starling, Cushing & Hegeman;" Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of "Freeman & Bright;" William M. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Dale, partners under the name and firm of "Bliss, Briggs & Douglass;" Patrick L. Rogers and Francisco de Soccarras, partners under the name and firm of "P. L. Rogers & Co.;" Edward Corning and Jasper E. Corning, partners under the name and firm of "E. Corning & Co.;" Roswell S. Benedict, William A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of "Benedict, Hall & Co.;" Alvin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of "A. & E. S. Higgins & Co.;" Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of "Henry W. Haydock & Co.;" Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of "Binninger & Cozzens;" William Curran, Henry Curran, and Charles W. Borup, Appellants.

To the Hon. Moses Sherburne, Associate Justice of the Supreme Court of the United States for the Territory of Minnesota:

Application is hereby made to your honor in behalf of the above named defendant, William B. Lawler, for the allowance of an appeal to the Supreme Court of the United States from the final judgment rendered in this cause on the second day of February, A. D. 1856, at the January term of the court in that year, and entered and perfected on the 14th day of February, A. D. 1857.

BRISBIN & BIGELOW,
Attorneys for the Defendant, William B. Lawler.

March 25th, A. D. 1857.

Appeal allowed this 25th March, A. D. 1857, pursuant to annexed application.

M. SHERBURNE, *Judge.*

[Rec. lxxxvi, D. T., 1858.]—1

Territory of Minnesota—in Supreme Court.

Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone, Respondents,

against

William B. Lawler, Thomas F. Hayes, and Lorenzo Snow, partners under the name and firm of "Hayes & Snow;" Phineas Freeman, surviving partner of the late firm of "Charles P. Freeman & Co.;" Lynn Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners under the name and firm of "Starling, Cushing & Hegeman;" Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of "Freeman & Bright;" William M. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Daly, partners under the name and firm of "Bliss, Briggs & Douglass;" Patriek L. Rogers and Francisco de Soccaras, partners under the name and firm of "P. L. Rogers & Co.;" Edward Corning and Jasper E. Corning, partners under the name and firm of "E. Corning & Co.;" Roswell S. Benedict, William A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of "Benedict, Hall & Co.;" Alvin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of "A. & E. S. Higgins & Co.;" Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of "Henry W. Haydock & Co.;" Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, and Charles W. Borup, Appellants.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

Horace R. Bigelow, of *the* Saint Paul, a witness of lawful age, being first duly sworn, says, that the amount in controversy in this cause, in which judgment was rendered by the court on the 2d day of February, A. D. 1856, at the January term thereof in that year, and entered and perfected on the 14th day of February, A. D. 1857, exceeds the sum of one thousand dollars, exclusive of interest and costs.

H. R. BIGELOW.

Subscribed and sworn to before me this 25th day of March, A. D. 1857.

M. SHERBURNE, *Judge.*

[*Endorsed.*]

Territory of Minnesota—supreme court. Horace B. Claflin and others, respondents, against William B. Lawler and others, appellants. Application for the allowance of an appeal to Supreme Court of U. S., and affidavit of amount in controversy.

Filed March 25th, 1857.

G. W. PRESCOTT, *Cl'k Sup. Court.*

Brisbin and Bigelow, attorneys for appellants, St. Paul, M. T.

Lawler vs. *Claflin et al.*

Territory of Minnesota—in Supreme Court.

Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone, Respondents,

against

William B. Lawler, Thomas F. Hayes, and Lorenzo Snow, partners under the name and firm of "Hayes & Snow;" Pineas Freeman, surviving partner of the late firm of "Charles P. Freeman & Co.;" Lynn Starling, George W. B. Cushing, and Benjamin Hegeman, partners under the name and firm of "Starling, Cushing & Hegeman;" Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of "Freeman & Bright;" William M. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Daly, partners under the name and firm of "Bliss, Briggs & Douglass;" Patrick L. Rogers and Francisco de Soccares, partners under the name and firm of "P. L. Rogers & Co.;" Edward Corning and Jasper E. Corning, partners under the name and firm of "E. Corning & Co.;" Roswell S. Benedict, William A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of "Benedict, Hall & Co.;" Alvin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of "A. & E. S. Higgins;" Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of "Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of "Binninger & Cozzens;" William Curran, Henry Curran, and Charles W. Borup, Appellants.

And now, on this 25th day of March, A. D. 1857, the above named defendant, William B. Lawler, after a final judgment, rendered in this cause on the 2d day of February, A. D. 1856, at the January term of the said court in that year, and duly entered and perfected on the fourteenth day of February, A. D. 1857, comes and shows to the court, that the amount in controversy exceeds the sum of one thousand dollars, and thereupon claims an appeal from the said final judgment to the Supreme Court of the United States, next to be holden at Washington on the first Monday in December, A. D. 1857; and the same is accordingly allowed, and the appellant is ordered to serve the usual citation according to law.

By the court: GEO. W. PRESCOTT, *Clerk.*

[*Endorsed.*]

Territory of Minnesota—supreme court. Horace B. Claflin and others, respondents, ag'st Wm. B. Lawler, impleaded, &c., appellants. Claim an allowance of appeal to the Supreme Court of the United States.

Filed March 25th, 1857. G. W. PRESCOTT, *Clerk,*

Brisbin and Bigelow, attorneys for appellants, Saint Paul, M. T.

UNITED STATES OF AMERICA, *ss.*

To Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday in December next, pursuant to an appeal filed in the clerk's office of the Supreme Court of the United States in and for the Territory of Minnesota, on the 25th day of March, A. D. 1857, wherein William B. Lawler is appellant, and you are respondents, to show cause, if any there be, why the judgment in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Moses Sherburne, associate justice of the Supreme Court of the United States, in and for the Territory of Minnesota, at the city of Saint Paul, in said Territory, this 25th day of March, A. D. 1857.

M. SHERBURNE, *Judge.*

[*Endorsed.*]

Supreme Court U. S. Horace B. Claflin and others, respondents, against William B. Lawler, impleaded, &c., appellants. Citation to respondents.

Service of the within citation, by receipt of a true copy thereof, is hereby admitted this 25th day of March, 1857.

HOLLINSHEAD & BECKER,
Att'ys for Pl'ffs.

Rec'd Mar. 25, '57. Filed March 27th, 1857.

G. W. PRESCOTT, *Clerk.*

Brisbin and Bigelow, attorneys for appellants, Saint Paul, M. T.

CLERK'S OFFICE SUPREME COURT,
Territory of Minnesota.

I, Geo. W. Prescott, clerk of the above named court, certify the foregoing to be true and complete copies of the originals and of the endorsements thereon, which are on file in said clerk's office, being application for and allowance of appeal, and affidavit of amount in controversy, in the cause within entitled.

Witness my hand and the seal of said supreme court, at St. Paul, this 27th day of August, A. D. 1857.

[SEAL.]

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d district, county of Ramsey.

Horce B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling, and Henry Stone,

against

William B. Lawler, Thomas T. Hayes, and Lorenzo Snow, part-

ners, under the name and firm of Hays & Snow; Phineas Freeman, surviving partner of the late firm of Charles P. Freeman & Co.; Lynn Starling, George W. B. Cushing, and Benjamin A. Hegemen, partners, under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners, under the name and firm of Freeman & Bright; William M. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock and Charles B. Daly, partners, under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socarcas, partners, under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners, under the name and firm of E. Corning & Co.; Roswell S. Benedict, William A. Hall, Lewis S. Benedict and Thomas Shaw, partners, under the name and firm of Benedict, Hall & Co.; Alvin Higgins, Elias S. Higgins and Nathaniel D. Higgins, partners, under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen and Robert C. White, partners, under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners, under the name and firm of Binninger & Cozzens; William Curran, Henry Curran and Charles W. Borup.

To the above named defendants: You, and each of you, are hereby summoned and required to answer the complaint in this action, filed in the office of the clerk of the said court, and to serve a copy of your answer to the said complaint on the subscribers, at their office in the city of St. Paul, within twenty after the service of this summons upon you, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will apply to the court for the relief demanded therein.

RICE, HOLLINSHEAD & BECKER,
Attorneys for the Plaintiffs.

Dated St. Paul, June 16th, 1854.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

William Hollinshead, of said county, being sworn, saith that he served a true and compared copy of the foregoing and within summons on Charles W. Borup, by giving the same to him personally, on the 20th day of June, 1854.

WM. HOLLINSHEAD.

Sworn to and subscribed before me, June 20, 1854.

J. M. STONE,
Judge of Probate.

We hereby acknowledge service of the within and above written summons, this 20 day of June, 1854.

RICE, HOLLINSHEAD & BECKER,

Attorneys for the defendants, Freeman & Bright, Bliss, Briggs & Douglass, P. L. Rogers & Co., E. Corning & Co., Benedict, Hall & Co., A. & E. S. Higgins & Co., Henry W. Haydock & Co., and Binninger & Cozzens.

St. Paul, June 20, 1854.

TERRITORY OF MINNESOTA,
Ramsey county, ss.

I hereby certify, that William B. Lawler, William Curran and Henry Curran, defendants in the within and above entitled action, cannot be found within my county, after diligent search made for them, and that, as I am informed and believe, they do not reside in the county of Ramsey.

St. Paul, July 29, '54.

A. M. FRIDLEY, *Sheriff.*
By A. W. TULLIS, *Deputy.*

We hereby accept and acknowledge service of the within summons, this 20th day of June, A. D. 1854.

MASTERSON & SIMONS,

Att'ys for within named defendants, Thomas T. Hayes, Lorenzo Snow, Phineas Freeman, Lyne Starling, George W. B. Cushing and Benjamin A. Hegemen.

The foregoing summons endorsed as follows: Filed Nov. 13th, 1854.

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d district, county of Ramsey.

Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone,

against

Wm. B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners, under the name and firm of Hayes & Snow; Phineas Freeman, surviving partner of the late firm of Charles P. Freeman & Co.; Lyne Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners, under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners, under the name and firm of Freeman & Bright; William M. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Daly, partners, under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socarrus, partners, under the name and firm of P.

L. Rogers & Co.; Edward Corning and Joseph E. Corning, partners, under the name and firm of E. Corning & Co.; Roswell S. Benedict, William A. Hall, Louis S. Benedict, and Thomas Shaw, partners, under the name and firm of Benedict, Hall & Co.; Alin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners, under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen, and Robert C. White, partners, under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners, under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, and Charles W. Borup.

The complaint of the above named plaintiffs respectfully shows to this court, that on the 1st day of October, in the year 1852, the defendant, William B. Lawler, by Anne Curran, his duly authorized attorney in fact, made his promissory note in writing, whereby he promised to pay, one year from the date of said note, to wit, one year from the said 1st day of October, 1852, for value received, to the plaintiffs, by the name of Claflin, Miller & Co., at their office in the city of New York, four thousand dollars, as by the said promissory note, ready to be produced by the plaintiffs as the court shall direct, will more fully appear. And the said defendant, William B. Lawler, to secure the payment of the said promissory note, did at the same time, by the said Anne Curran, his duly authorized attorney in fact, execute under his hand and seal, and deliver to the plaintiffs a mortgage, conditioned for the payment of the said sum of four thousand dollars, according to the condition, tenor and effect of the said promissory note; by which said mortgage the said defendants granted, bargained, and sold to the plaintiffs, and to their heirs and assigns forever, all the following described piece or parcel of land, situate, lying, and being in the county of Ramsey, and Territory of Minnesota, known and designated as follows, to wit: being part of lot number (3), in block No. thirty-two (32), in the town of St. Paul, forming an oblong square forty-two (42) feet on Third street, by eighty (80) feet on Roberts street, together with all and singular the appurtenances and privileges thereunto belonging or in anywise appertaining; which said mortgage was duly acknowledged, and was afterwards duly recorded as a mortgage in the office of the register of deeds, for the said county of Ramsey, on the second day of October, in the year 1852, at six o'clock in the afternoon, in book B of mortgages, on pages 173 and 174, as by the mortgage and the certificate of the acknowledgment and recording thereof, endorsed thereon, and ready to be produced as this court shall direct, will more fully appear.

And the complaint of the plaintiffs further respectfully shows to this court, that the defendant, William B. Lawler, hath not paid the amount due upon the said promissory note, and the said

mortgage, nor any part thereof, but there is now justly due to them on the said note and mortgage the sum of four thousand dollars, with interest thereon from the fourth day of October, 1853.

And the complaint of the plaintiffs further respectfully shows to this court, that the defendants, other than the said William B. Lawler, above named, claim title or interest in the said mortgaged premises, as attaching creditors of the defendant Lawler, and as mortgagees and assignees of mortgagees of said premises, subsequent to the execution and recording of the said mortgage to the plaintiffs, as aforesaid.

The plaintiffs therefore demand, that the defendants, and all persons claiming under them, or any or either of them, subsequently to the commencement of this action, may be barred and foreclosed of all right, claim, lien and equity of redemption in the said mortgaged premises, that the said premises may be decreed to be sold according to law, and the amount due to the plaintiffs for principal and interest on the said note and mortgage, and the costs of this action, so far as the moneys arising from the said sale will pay the same, be paid to the plaintiffs, and that the defendant, William B. Lawler, may be adjudged to pay the deficiency which may remain after applying all of the moneys arising from said sale to the payment of the amount due to the plaintiffs as aforesaid, and that the plaintiffs may have such further or such other relief, or both, in the premises, as shall be just and equitable.

RICE, HOLLINSHEAD & BECKER,
Plaintiffs' Attorneys.

St. Paul, June 16th, 1854.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

William Hollinshead, of said county, being duly sworn, saith, that he is one of the attorneys for the plaintiffs in the above entitled action, and that the foregoing complaint is true of his own knowledge, except as to the matters which are therein stated on information or belief, and as to such matters he verily believes it to be true.

That the means of his knowledge, or the grounds of his belief on the subject, are that he has in his possession the original note and mortgage upon which the said action is brought, having received the same from the plaintiffs for collection.

That the facts relative to the interest of the defendants in the said action, other than the defendant William B. Lawler, have been ascertained by deponent from an inspection of the records of the said county of Ramsey.

That the reason why this affidavit or verification is not made by the plaintiffs, nor either of them, is that they are all absent from the county where their attorneys reside.

WM. HOLLINSHEAD.

Sworn to and subscribed before me, this 20th day of June, 1854.
J. M. STONE, *Judge of Probate.*

The foregoing complaint endorsed as follows:
Filed July 29, 1854.
ANDREW J. WHITNEY, *Cl'k.*
By J. K. HUMPHREY, *Dept.*

Territory of Minnesota, District Court, second district, county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MILLEAN, Nathaniel F. Miller, David H. Conkling and Henry Stone,
against
WILLIAM B. LAWLER and others.

The demurrer of Charles W. Borup, one of the defendants in the above entitled action, to the complaint and the issue of law therein, came on to be heard before the court upon due notice thereof, and was argued by the counsel of the respective parties; and, after hearing Mr. Hollinshead, counsel for the plaintiffs, in opposition to the said demurrer, as well as Mr. Ames and Mr. Brisbin for the defendant, Borup, in support of the same, the court being fully advised upon the same, therefore it is considered, and hereby ordered and adjudged by the court, that the said demurrer of the defendant Charles W. Borup to the complaint be, and the same is allowed and sustained, and that the defendant have judgment against the plaintiff thereon for his costs to be taxed; and it is further ordered that the plaintiffs have leave to amend their complaint, and to serve an amended complaint in the action within twenty days from the date of this order, on payment of costs to be taxed as aforesaid.

Dated this 12th day of October, 1854.
M. SHERBURNE, *Judge.*

The foregoing endorsed as follows:
Due service of the within is admitted.
St. Paul, Oct. 12, 1854.
RICE, HOLLINSHEAD & BECKER.
Filed Oct. 16, 1854.
GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, second district, county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MILLEN, Nathaniel F. Miller, David H. Conkling and Henry Stone,
against
WILLIAM B. LAWLER and others.

GENTLEMEN: Please to take notice that the costs will be taxed

and adjusted, (upon the demurrer and issue of law tried in the above entitled action,) by and before George W. Prescott, esq., clerk of the said district court, at the office of the said clerk, at the capitol, in the city of Saint Paul, on Monday next, the 16th day of October, instant, at 9 o'clock in the forenoon of that day.

And the following costs are claimed by the defendant Charles W. Borup, viz:

For all proceedings before notice of trial..	$5	00
" subsequent proceedings.....	7	00
" trial of issue of law.....	12	00
	24	00
Clerk's costs to taxed and added.....	4	95
	28	95

And the papers on file in this cause, and the record and order of the court in the cause, will be used upon the said taxation and adjustment of costs.

Yours, respectfully,
AMES & VAN ETTEN,
Attorneys for Def't Borup.

Messrs. RICE, HOLLINSHEAD & BECKER,
Plffs' Att'ys.

St. Paul, Oct. 12th, 1854.

The foregoing costs taxed at $28 95, this 16th day of Oct., 1854.
GEO. W. PRESCOTT, *Clerk.*

The above bill of costs endorsed as follows:
St. Paul, Oct. 12, 1854. Due service of the within is hereby admitted.
RICE, HOLLINSHEAD & BECKER,
Att'ys for Pl'ffs.

Filed Oct. 16th, 1854.
GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d district, county of Ramsey.

Horace B. Claflin, William H. Millen, Nathaniel F. Miller, David H. Conkling, and Henry Stone,
against
William B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners under name and firm of "Hayes & Snow;" Phineas Freeman, surviving partner of the late firm of "Charles P. Freeman & Co.;" Lyne Starling, Geo. W. Cushing, and Benjamin A. Hegeman, partners under the name and firm of "Starling, Cushing & Hegeman;" Alexander H. Freeman & Aaron S. Bright, partners under the name and firm of "Freeman & Bright;" Wm.

M. Bliss, John R. Briggs, Charles S. Douglass, Wm. A. Wheelock and Charles B. Daly, partners under the name and firm of "Bliss, Briggs & Douglass;" Patrick L. Rogers and Francisco de Socarras, partners under the name and firm of "P. L. Rogers & Co.;" Edward Corning and Joseph E. Corning, partners under the name and firm of "E. Corning & Co.;" Roswell S. Benedict, Wm. A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of "Benedict, Hall & Co.;" Allin Higgins, Elias S. Higgins, and Nathan'l D. Higgins, partners under name and firm of "A. & E. S. Higgins;" Henry W. Haydock, Wm. A. Allen, and Robert C. White, partners under name and firm of "Henry W. Haydock;" Andrew G. Binninger and Frederick S. Cozzens, partners under name and firm of "Binninger & Cozzens;" William Curran, Henry Curran, and Charles W. Borup.

In pursuance of an order of court made on the 12th day of October, A. D. 1854, that the demurrer of Charles W. Borup, one of the defendants in this cause, be allowed and sustained, and that said defendant have judgment against the plaintiff for his costs: Now, on motion of Messrs. Ames and Van Ettan, said defendants' attorneys, it is hereby adjudged, that said defendant do recover of the said plaintiffs the sum of twenty-eight dollars and ninety-five cents.

Dated October 20, 1854.

GEO. W. PRESCOTT, *Clerk.*

Statement for Judgment.

Proceedings before notice of trial.....	$5 00
subsequent.....	7 00
Trial fee.....	12 00
Clerk's fees.....	4 95
	$28 95

A true copy of the original judgment entered in the above cause.

Attest: GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d dist., county of Ramsey.

Aaron B. Claflin, Wm. H. Mellen, Nathaniel F. Miller, David H. Conklin, and Henry Stone,

against

Wm. B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners under the name and firm Hayes & Snow; Phineas Freeman, survi'ng partner of the late firm of Charles B. Freeman & Co.; Lynn Starling, George W. B. Cushing, and Benjamin A. Hege-

man, partners under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of Freeman & Bright; Wm. M. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Daly, partners under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socarras, partners under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners under the name and firm of E. Corning & Co.; Roswell S. Benedict, William A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of Benedict, Hall & Co.; Allin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of Henry W. Haydock & Co.; Andrew B. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, and Charles W. Borup.

The complaint of the above named plaintiffs respectfully shows to this court, that on the first day of October, in the year 1852, the defendant, William B. Lawler, by Anne Curran, his duly authorized attorney in fact, made his promissory note in writing, whereby he promised to pay one year from the date of said note, to wit, one year from the said 1st day of October, 1852, for value received, to the plaintiffs, by the name of Claflin, Mellen & Co., at their office, in the city of New York, four thousand dollars, as by the said promissory note, ready to be produced by the plaintiffs as this court shall direct, will more fully appear. And the said defendant, William B. Lawler, to secure the payment of the said promissory note, did at the same time, by the said Anne Curran, his duly authorized attorney in fact, execute under his hand and seal, and deliver to the plaintiffs a mortgage, conditioned for the payment of the said sum of four thousand dollars, according to the condition, tenor, and effect of the said promissory note, by which said mortgage the said defendant granted, bargained, and sold the plaintiffs, and to their heirs and assigns, forever, all the following described piece or parcel of land situate, lying, and being in the county of Ramsey and Territory of Minnesota, known and designated as follows, to wit: being part of lot number (3) three, in block number thirty-two (32), in the town of St. Paul, forming an oblong square forty-two (42) feet on Third street, by eighty feet (80) on Roberts street, together with all and singular the appurtenances and privileges thereunto belonging or in anywise appertaining, which said mortgage was duly acknowledged, and was afterward duly recorded as a mortgage in the office of the register of deeds, for the said county of Ramsey, on the second day of October, in the year 1852, at six o'clock in the afternoon, in book "B"

of mortgages, on pages 173 and 174, as by the said mortgage and the certificate of the acknowledgment and recording thereof endorsed thereon, and ready to be produced as this court shall direct, will more fully appear.

And the complaint of the plaintiffs further respectfully shows to this court, that the defendant, William B. Lawler, hath not paid the amount due upon the said promissory note, and the said mortgage, nor any part thereof, but there is now justly due to them on the said note and mortgage the sum of four thousand dollars, with interest thereon from the fourth day of October, 1853.

And the complaint of the said plaintiffs further respectfully shows to this court, that no proceedings have been had at law for the recovery of the debt secured by the said mortgage or any part thereof, and neither the said debt, nor any part thereof, has ever been collected or paid.

And the complaint of the plaintiffs further respectfully shows to this court, that the defendants, other than the said William B. Lawler, above named, claim title or interest in the said mortgaged premises, as attaching creditors of the defendant Lawler, and as mortgagees and assignees of mortgagees of said premises subsequent to the execution and recording of the said mortgage, to the plaintiffs as aforesaid.

The plaintiffs therefore demand that the defendants, and all persons claiming under them, or any or either of them, subsequently to the commencement of this action, may be barred and foreclosed of all right, claim, lien, and equity of redemption in the said mortgaged premises; that the said premises may be decreed to be sold according to law, and the amount due to the plaintiffs for principal and interest on the said note and mortgage, and the costs of this action, so far as the moneys arising from the said sale will pay the same, be paid to the plaintiffs; and that the defendant, William B. Lawler, may be adjudged to pay the deficiency which may remain after applying all of the moneys arising from said sale to the payment of the amount due to the plaintiffs as aforesaid; and that the plaintiffs may have such further or such other relief, or both, in the premises, as shall be just and equitable.

(Signed) RICE, HOLLINSHEAD & BECKER,
Plaintiffs' Attorneys.

St. Paul, Oct. 31st, 1854.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

William Hollinshead, of said county, being duly sworn, saith, that he is one of the attorneys for the plaintiffs in the above action, and that the foregoing complaint is true of his own knowledge, except as to matters which are therein stated on information or

belief, and that, as to such matters, he verily believes it to be true. That the means of his knowledge or the grounds of his belief on the subject are, that he has in his possession the original note and mortgage upon which the said action is brought, having received the same from the plaintiffs for collection. That the facts relative to the interest of the defendants in the said action, other than the defendant, William B. Lawler, have been ascertained by deponent from an inspection of the records of the said county of Ramsey. That the reason why this affidavit or verification is not made by the plaintiffs, nor either of them, is, that they are all absent from the county where their attorney resides.

WM. HOLLINSHEAD.

Sworn to and subscribed before me, Oct. 31, 1854.

F. McCORMACK,
Notary Public, Ramsey Co., M. T.

The foregoing amended complaint amended as follows:

Due service of a copy of the within amended complaint on us this 31st day of Oct., 1854, and all objections arising from lapse of time are hereby waived.

AMES & VAN ETTAN.
By J. DANIELS.

Filed Nov. 13th, 1854.

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d dist., county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling, and Henry Stone,
against
WILLIAM B. LAWLER, WILLIAM CURRAN, Henry Curran and others.

TERRITORY OF MINNESOTA,
Ramsey County, ss.

William Hollinshead, of said county, being duly sworn, says, that he is one of the attorneys for the plaintiffs in the above entitled action; that a cause of action herein exists in favor of the plaintiffs and against the defendants, the nature and character whereof is particularly set forth in the complaint and amended complaint hereto annexed, and made part of this affidavit; that William B. Lawler, William Curran and Henry Curran are not residents of this Territory, but have, or claim to have, property therein; that the said William B. Lawler, William Curran and Henry Curran cannot, after due diligence, be found within the county; that the diligence used to find them appears from the return of the sheriff of said county to the summons in the said action, which is hereto an-

nexed and made part of this affidavit; that the residence of the said William B. Lawler, William Curran and Henry Curran is unknown to this defendant; and further deponent saith not, save that this affidavit is made for the purpose of procuring an order that the summons in the said action shall be served by publication of the same in conformity with the statute in such case made and provided.

Sworn to and subscribed before me, Nov. 1st, 1854.

F. McCORMICK,
Notary Public, Ramsey County, M. T.

Territory of Minnesota, District Court, 2d dist., county of Ramsey.

Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone,

against

Wm. B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners under name and firm of Hayes & Snow; Phineas Freeman, surviving partner of the late firm of Charles P. Freeman & Co.; Lynn Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners under name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners under name and firm of Freeman & Bright; William M. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Daly, partners under name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socarras, partners under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners under the name and firm of E. Corning & Co.; Roswell S. Benedict, William A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under name and firm of Benedict, Hall & Co.; Alin Higgins, Elias S. Higgins, partners under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of Henry W. Haydock & Co.; Andrew B. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, and Charles W. Borup.

The complaint of the above named plaintiffs respectfully shows to this court, that on the 1st day of October, in the year 1852, the defendant, William B. Lawler, by Anne Curran, his duly authorized attorney in fact, made his promissory note in writing, whereby he promised to pay one year from the date of said note, to wit, one year from the said 1st day of October, 1852, for value received, to the plaintiffs, by the name of Clifton, Mellen & Co., at their office, in the city of New York, four thousand dollars, as by the said promissory note, ready to be produced by the plaintiffs as this court shall direct, will more fully appear; and the said defendant, William B. Lawler, to secure the payment of said promissory note,

did at the same time, by the said Anne Curran, his duly authorized attorney in fact, execute under his hand and seal, and deliver to the plaintiffs, a mortgage, conditioned for the payment of said sum of four thousand dollars, according to the condition, tenor, and effect of the said promissory note; by which said mortgage the said defendant granted, bargained and sold to the plaintiffs, and to their heirs and assigns forever, all the following described piece or parcel of land, situate, lying and being in the county of Ramsey, and Territory of Minnesota, and known and designated as follows, to wit: being part of lot number three (3), in block number thirty-two (32), in the town of St. Paul, forming an oblong square forty-two feet (42) on Third street by eighty feet (80) on Robert street, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise appertaining; which said mortgage was duly acknowledged, and was afterwards duly recorded as a mortgage in the office of the register of deeds for the said county of Ramsey, on the second day of October, in the year 1852, at six o'clock in the afternoon, in book "B" of mortgages, on pages 173 and 174, as by the said mortgage and the certificate of the acknowledgment and recording thereof endorsed thereon, and ready to be produced as this court shall direct, will more fully appear.

And the complaint of the plaintiffs further respectfully shows to this court that the defendant, William B. Lawler, hath not paid the amount due upon the said promissory note and the said mortgage, nor any part thereof; but there is now justly due to them on the said note and mortgage the sum of four thousand dollars, with interest thereon from the fourth day of October, 1853.

And the complaint of the plaintiffs further respectfully shows to this court that the defendants, other than the said William B. Lawler above named, claim title or interest in the said mortgaged premises, as attaching creditors of the defendant, Lawler, and as mortgagees and assignees of mortgagees of said premises subsequent to the execution and recording of the said mortgage, to the plaintiffs as aforesaid. The plaintiffs therefore demand that the defendants, and all persons claiming under them, or any or either of them, subsequently to the commencement of this action, may be barred and foreclosed of all right, claim, lien, and equity of redemption in the said mortgaged premises; that the said premises may be decreed to be sold according to law, and the amount due to the plaintiffs for principal and interest on the said note and mortgage, and the costs of this action, so far as the moneys arising from the said sale will pay the same, be paid to the plaintiffs, and that the defendant, William B. Lawler, may be adjudged to pay the deficiency which may remain after applying all the moneys arising from said sale to the payment of the amount due to the plaintiffs

as aforesaid, and that the plaintiffs may have such further or such other relief, or both, in the premises, as shall be just and equitable.

RICE, HOLLINSHEAD & BECKER,
Plaintiffs' Attorneys.

St. Paul, June 16, 1854.

TERRITORY OF MINNESOTA,
Ramsey County, ss.

William Hollinshead, of said county, being duly sworn, saith, that he is one of the attorneys for the plaintiffs in the above action, and that the foregoing complaint is true of his own knowledge, except as to matters which are therein stated on information or belief, and that as to such matters he verily believes it to be true; that the means of his knowledge or the grounds of his belief on the subject are, that he has in his possession the original note and mortgage upon which the said action is brought, having received the same from the plaintiffs for collection; that the facts relative to the interest of the defendants in the said action, other than the defendant William B. Lawyer, have been ascertained by the deponent from an inspection of the records of the said county of Ramsey; that the reason why this affidavit or verification is not made by the plaintiffs, nor either of them, is, that they are all absent from the county where their attorneys reside.

WM. HOLLINSHEAD.

Sworn to and subscribed before me, this 20th day of June, 1854.
J. M. STONE, *Judge of Probate.*

Territory of Minnesota, District Court, 2d dist., county of Ramsey.

Horace B. Claflin, Wm. H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone,
against
Wm. B. Lawler, Thomas M. T. Hayes and Lorenzo Snow, partners under the name and firm of Hayes & Snow; Phineas Freeman, surviving partner of the late firm of Charles B. Freeman & Co.; Lynn Starling, Geo. W. B. Cushing and Benjamin A. Hegeman, partners under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of Freeman & Bright; Wm. Bliss, John R. Briggs, Charles S. Douglass, Wm. A. Wheelock and Charles B. Daly, partners under the name and firm of Bliss, Briggs & Douglass; Patrick S. Rogers and Francisco de Socarras, partners under the firm name of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners under the name and firm of E. Corning & Co.; Roswell S. Benedict, William A. Hall, Lewis S. Benedict and Thomas Shaw, partners under the name and firm of Benedict, Hall & Co.; Alvin Higgins, Elias S. Higgins and Nathaniel D. Higgins, partners under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock,

William A. Allen and Robert C. White, partners under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran and Charles W. Borup.

The complaint of the above named plaintiffs respectfully shows to this court, that on the first day of October, in the year 1852, the defendant, William B. Lawler, by Anne Curran, his duly authorized attorney in fact, made his promissory note in writing, whereby he promised to pay, one year from the date of said note, to wit, one year from the said first day of October, 1852, for value received, to the plaintiffs, by the name of "Claflin, Mellen & Co.," at their office in the city of New York, four thousand dollars, as by said promissory note, ready to be produced by the plaintiffs as this court shall direct, will more fully appear. And the said defendant, William B. Lawler, to secure the payment of the said promissory note, did at the same time, by the said Anne Curran, his duly authorized attorney in fact, execute under his hand and seal, and deliver to the plaintiffs, a mortgage conditioned for the payment of the said sum of four thousand dollars, according to the condition, tenor and effect of the said promissory note, by which said mortgage the said defendant granted, bargained, and sold to the plaintiffs, and to their heirs and assigns forever, all the following described piece or parcel of land situate, lying and being in the county of Ramsey, and Territory of Minnesota, known and designated as follows, to wit: being part of lot number three (3), in block number thirty-two (32), in the town of St. Paul, forming an oblong square, forty-two (42) feet on Third street, by eighty (80) feet on Robert street, together with all and singular the appurtenances and privileges thereunto belonging or in anywise appertaining, which said mortgage was duly acknowledged, and was afterwards duly recorded as a mortgage in the office of the register of deeds for the said county of Ramsey, on the second day of October, in the year 1852, at six o'clock in the afternoon, in book "B" of mortgages, on pages 173 and 174, as by the said mortgage and the certificate of the acknowledgment and recording thereof endorsed thereon, and ready to be produced as this court shall direct, will more fully appear.

And the complaint of the plaintiffs further respectfully shows to this court, that the defendant, William B. Lawler, hath not paid the amount due upon the said promissory note and the said mortgage, nor any part thereof, but there is now justly due to them on the said note and mortgage the sum of four thousand dollars, with interest thereon from the fourth day of October, 1853. And the complaint of the said plaintiffs further respectfully shows to this court, that no proceedings have been had at law for the recovery of the debt secured by the said mortgage, or any part thereof, and

neither the said debt, nor any part thereof, has ever been collected or paid.

And the complaint of the plaintiffs further respectfully shows to this court, that the defendants, other than the said William B. Lawler above named, claim title or interest in the said mortgaged premises, as attaching creditors of the defendant Lawler, and as mortgagees and assignees of mortgagees of said premises subsequent to the execution and recording of the said mortgage, to the plaintiffs as aforesaid.

The plaintiffs therefore demand that the defendants, and all persons claiming under them, or any or either of them, subsequently to the commencement of this action, may be barred and foreclosed of all right, claim, lien, and equity of redemption in the said mortgaged premises; that the said premises may be decreed to be sold according to law, and the amount due to the plaintiffs for principal and interest on the said note and mortgage, and the costs of this action, so far as the moneys arising from the said sale will pay the same, be paid to the plaintiffs; and that the defendant, William B. Lawler, may be adjudged to pay the deficiency which may remain after applying all of the moneys arising from said sale to the payment of the amount due to the plaintiffs as aforesaid, and that the plaintiffs may have such further or such other relief, or both, in the premises, as shall be just and equitable.

(Signed) RICE, HOLLINSHEAD & BECKER,
Plaintiffs' Attorneys.

St. Paul, Oct. 31, 1854.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

William Hollinshead, of said county, being duly sworn, saith, that he is one of the attorneys for the plaintiffs in the above action, and that the foregoing complaint is true of his own knowledge, except as to matters which are herein stated on information or belief, and that as to matters he verily believes it to be true. That the means of his knowledge, or the grounds of his belief on the subject, are, that he has in his possession the original note and mortgage upon which the said action is brought, having received the same from the plaintiffs for collection. That the facts relative to the interest of the defendants in the said action, other than the defendant William B. Lawler, have been ascertained by deponent from an inspection of the records of the said county of Ramsey. That the reason why this affidavit or verification is not made by the plaintiffs, nor either of them, is that they are all absent from the county where the attorneys reside.

WM. HOLLINSHEAD.

Sworn and subscribed to before me, Oct. 31, 1854.

F. McCORMICK,
Notary Public, Ramsey county, M. T.

[The foregoing endorsed:]

Territory of Minnesota, dist. court, 2d dist., county of Ramsey. Claflin, Mellen & Co., agst. Wm. B. Lawler and others. Affidavit for order of publication.

Filed Nov. 14, 1854.

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d dist., county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling, and Henry Stone,
against
WILLIAM B. LAWLER, WILLIAM CURRAN, Henry Curran, and others.

Order of Publication.

It appearing to my satisfaction, by the affidavit of William Hollinshead, that a cause of action exists against the above named defendants, and that such defendants are not residents of this Territory, and cannot, after due diligence, be found therein, and that they have or claim to have property therein, I do order that the summons in this action be served on the said defendants by the publication thereof once in each week for six successive weeks in the Minnesota Democrat, a newspaper published in the county of Ramsey and Territory of Minnesota.

M. SHERBURNE, *Judge.*

At Chambers, Nov. 1, 1854.

The above order endorsed: Filed Nov. 13, 1854.

GEO. W. PRESCOTT, *Clerk.*

In the District Court in and for the 2d judicial district, county of Ramsey, in the Territory of Minnesota.

Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone,
against
Wm. B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners under the name and firm of Hayes & Snow; Phineas Freeman, survi'ng partner of the late firm of Charles P. Freeman & Co.; Lynn Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of Freeman & Bright; William H. Bliss, John R. Briggs, Charles S. Douglass, Wm. A. Wheelock, and Charles B. Daly, partners under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socarras, partners under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners under the name and firm of E. Corning & Co.; Roswell

S. Benedict, William A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of Benedict, Hall & Co.; Alin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, and Charles W. Borup.

To the above named defendants: You, and each of you, are hereby summoned and required to answer the complaint in this action, filed in the office of the clerk of the said court, and to serve a copy of your answer to the said complaint on the subscribers, at their office in the city of St. Paul, within twenty days after the service of this summons upon you, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiffs in this action will apply to the court for the relief demanded therein.

RICE, HOLLINSHEAD & BECKER,
Attorneys for Plaintiffs.

Dated St. Paul, June 16th, 1854.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

Charles L. Emerson, of said county and Territory, being duly sworn, says, that he is, and has been since the third day of November, 1854, proprietor and publisher of the Minnesota Democrat, a public newspaper, printed and published in the city of St. Paul, and county of Ramsey, in the Territory of Minnesota, and that the summons hereto annexed, dated June 16, 1854, was published in said paper once in each week for six weeks successively.

Deponent further says, that said summons was first so published on the fourth day of November, 1854.

C. L. EMERSON.

Subscribed and sworn to before me, Aug. 7, 1855.
N. GIBBS, *Justice of the Peace.*

The foregoing affidavit endorsed: Filed Aug. 29, 1855.
GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d district, county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling, and Henry Sone,
against
WILLIAM B. LAWLER and others.

The separate answer of William B. Lawler, one of the defendants in the above entitled action, to the amended complaint of the plaintiffs, respectfully shows to this court, and states that he admits that on or about the first day of October, in the year 1852, the defendant, William B. Lawler, by Anne Curran, his attorney in fact, made his promissory note in writing, payable one year from the date thereof to the said Claflin, Mellen & Co., for the sum of four thousand dollars.

And that the said William B. Lawler did, by the said Anne Curran, his attorney in fact, at the same time execute the said mortgage described in the complaint, conditioned for the payment of the said sum of four thousand dollars, according to the tenor and effect of said promissory note, and upon and comprising the premises or real estate described in the said complaint, and by Anne Curran, his said att'y in fact, acknowledged the same as a mortgage.

And this defendant further answering, says, that at the time of making and delivery of the said note, and of the execution of the said mortgage, and for a long time before and after that time, this defendant and one James Curran were co-partners in trade, engaged in the mercantile business at Saint Paul, in the Territory of Minnesota, under the name, style and firm of "Curran & Lawler," and, as such firm and co-partnership, had before that time purchased divers bills of goods, wares and merchandise at different times from the plaintiffs and other firms, and persons in the city of New York, partially upon credit and of large amounts; that such purchases were all made exclusively by the said James Curran in person on account of and for the said firm of Curran & Lawler; that this defendant was absent from the Territory of Minnesota when the said note was made, and mortgage executed at the time the same were made and executed by the said Anne Curran, his attorney in fact, and had been and remained continually absent from the Territory and place where the said Curran & Lawler carried on their said mercantile and co-partnership business for a long time previous to and after the giving of said note and execution of said mortgage.

That at the time said note was made and mortgage was executed the said co-partnership firm of Curran & Lawler were then actually indebted to the plaintiffs in the sum of twenty-one hundred and twenty-six dollars and eight cents for the balance due to the plaintiffs for goods purchased from them before that time by said firm of Curran & Lawler; that at that time this defendant and his said attorney in fact, or either of them, did not know the actual or precise sum or amount of the indebtedness which was then due to the plaintiffs from the said firm of "Curran & Lawler."

That at the request of the said James Curran, and for the purpose of better sustaining the credit of the said firm of "Curran & Lawler," and retaining the confidence of the plaintiffs in said firm,

and in its solvency and ability, and for the sole and express purpose only of securing to the plaintiffs the payment of the balance and amount that might be found due them at that time, and was actually due or owing to them, the plaintiffs, from the said Curran & Lawler at that time, to wit, on the first day of October, 1852, this defendant, by the said Anne Curran, his attorney in fact, made the said promissory note, and executed and acknowledged the said mortgage described in the complaint, and for no other purpose or consideration whatever; and the said Anne Curran, acting as the agent and attorney in fact for and on behalf of this defendant, then and there, at the time she so executed the same, delivered the said promissory note and mortgage to the said James Curran, and at his request as aforesaid, upon the express condition and agreement that the same should be deposited, and used only for the special purpose of securing the payments of the balance, and the sum then actually due and owing from the said firm of Curran & Lawler to the plaintiffs at that time, to wit, at the time of the execution of the said mortgage, and for no other purpose or consideration, and upon the express condition that when such balance and sum as was then actually owing from the said firm of Curran & Lawler to the plaintiffs should be thereafter paid and satisfied, said note and mortgage should be delivered up to this defendant or to his said attorney in fact, fully released, satisfied and discharged.

And this defendant further states, that he is informed, and believes to be true, and therefore says, that afterwards the said note and mortgage was delivered by the said James Curran to and deposited with the plaintiffs solely for the purpose and upon the express condition hereinbefore stated, to wit, to secure the payment of the balance and sum then actually due and owing from the said Curran & Lawler to the plaintiffs, and upon no other considerations or condition.

And defendant further says, that afterwards, on or about the 12th day of December, A. D. 1852, the said Curran & Lawler paid to the order of the plaintiffs, and upon their order to James Carter & Co., a business firm in the city of Galena, and in the State of Illinois, the sum of twenty-one hundred and twenty-six dollars and eight cents, for and in full payment, satisfaction and discharge of the whole entire sum and amount which was due and owing from the said Curran & Lawler to the plaintiffs at the time of the making of said note and execution of said mortgage, and delivery of the same to the plaintiffs, and which sum so paid was the full amount of said indebtedness.

And this defendant further answering, says, that the said promissory note mentioned in the complaint, and for which the said mortgage in the complaint described was executed to secure, was made and delivered without any valuable consideration whatever, and that no consideration for the said note or mortgage has been paid to or received by this defendant, or for his use.

And this defendant denies that there is now justly due to the plaintiffs upon the said note and mortgage the sum of four thousand dollars, with interest thereon from the fourth day of October, 1853, or any other sum whatever, as stated in the said complaint, or otherwise, and says that the plaintiffs hold the same without any consideration therefor, and in fraud of this defendant's just and legal rights.

Wherefore this defendant demands judgment against the said plaintiffs, that the said note and mortgage described in the said complaint be delivered up and cancelled, and for such other and further judgment or relief as the court will grant, with the costs of this action.

AMES & VAN ETTEN,
Att'ys for Def't.

WM. B. LAWLER.

TERRITORY OF MINNESOTA,
County of Washington, ss.

Anne Curran came personally before me, and being duly sworn, says that she is the attorney in fact for Wm. B. Lawler, one of the defendants in the above entitled action, and the defendant who makes the above and foregoing answer; that she has heard the above and foregoing answer read, and knows the contents thereof, and that the same is true of her own knowledge, except as to the matters which are therein stated on information or belief, and that as to those matters, she believes it to be true.

And she further says, that all and every of the facts and matters stated and contained in the foregoing answer are within her personal knowledge, and that her knowledge and the grounds of her belief on the subject are, that she was the attorney in fact and agent of the said Lawler, in the Territory of Minnesota, before and at the time the said note and mortgage in the complaint described were made and executed, and has been ever since; that as such attorney in fact, she executed the same, and delivered them to the said James Curran; that she has the written evidence of the payment of all indebtedness due or owing from the said Curran & Lawler to the plaintiffs at the time of the execution of said note and mortgage in her possession, and the statement thereof in writing made by the plaintiffs, that the reason why this affidavit of verification is not made by the defendant, William B. Lawler, is because he is absent from the county and Territory where his attorneys reside.

ANNE CURRAN.

Subscribed and sworn to before me, this 20th day of January, 1855.

DAVID HONE,
Justice of the Peace, for Washington County.

In the District Court in and for the 2d judicial district, and county of Ramsey, in the Territory of Minnesota.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling and Henry Stone,
against
WILLIAM B. LAWLER and others.

The reply of the plaintiffs in the above entitled action to the separate answer of William B. Lawler, a defendant therein, repectfully shows to this court, that as to the allegations in the said separate answer contained, "That at the time said note was made and the mortgage was executed, the said co-partnership, firm of Curran & Lawler were then actually indebted to the plaintiffs in the sum of twenty-one hundred and twenty-six dollars and eight cents for the balance due to the plaintiffs for goods purchased from them before that time, by said firm of Curran & Lawler; that at the time, this defendant and his said attorney in fact, or either of them, did not know the actual or precise sum or amount of the indebtedness which was then due to the plaintiffs from the said firm of Curran & Lawler; that at the request of the said James Curran, and for the purpose of better sustaining the credit of the said firm of Curran & Lawler, and retaining the confidence of the plaintiffs in said firm, and in its solvency and ability, and for the sole and express purpose only of securing to the plaintiffs the payment of the balance and amount that might be found due them at that time, and was actually due or owing to them, the plaintiffs, from the said Curran & Lawler at that time, to wit, on the first day of October, 1852, this defendant, by the said Anne Curran, his attorney in fact, made the said promissory note, and executed and acknowledged the said mortgage described in the complaint, and for no other purpose or consideration whatever; and the said Anne Curran, acting as the agent and attorney in fact for and on behalf of this defendant, then and there, at the time she so executed the same, delivered the said promissory note and mortgage to the said James Curran, and at his request as aforesaid, upon the express condition and agreement that the same should be deposited and used only for the special purpose of securing the payments of the balance and sum then actually due and owing from the said firm of Curran & Lawler to the plaintiffs at that time, to wit, at the time of the execution of the said mortgage, and for no other purpose or consideration, and upon the express condition, that when such balance and sum as was then actually owing from the said firm of Curran & Lawler to the plaintiffs should be thereafter paid and satisfied, said note and mortgage should be delivered up to this defendant, or to his said attorney in fact, fully released, satisfied, and discharged"—

The plaintiffs deny the same, and each and every of said allega-

tions, and every part thereof, and aver that the said note and mortgage were given to secure the payment of any indebtedness of Curran & Lawler then existing to the plaintiffs, or that might thereafter be contracted, and the indebtedness of Curran & Lawler at the time of the maturity of the said note and at the time of the commencement of this action amounted to upwards of five thousand dollars; no part of which has ever been paid, and for which their only security is the said note and mortgage.

And the said plaintiffs, further replying, deny that the said note and mortgage was delivered to them by the said James Curran solely for the purpose or upon the express condition stated in the above quoted portion of the said separate answer, but aver that the same were given to them to secure the indebtedness of Curran & Lawler to them as aforesaid.

And the plaintiffs, further replying, deny that either the defendant Lawler, his attorney in fact, Anne Curran, James Curran, or Curran & Lawler, or any other person whatever, ever paid to James Carter & Co., or to any other person, the indebtedness so intended to be secured by the said indenture of mortgage and the said note, either as stated in the said separate answer or otherwise, or any part thereof, and aver that Curran & Lawler, and the defendant Lawler, have received from them in goods and merchandise sold and delivered to them by the plaintiffs, the entire amount of the consideration of the said note and mortgage, and upwards of one thousand dollars, and now are actually indebted to the plaintiffs in upwards of five thousand dollars, and interest thereon, to secure which the said note and mortgage were given. Wherefore the plaintiffs demand judgment, as before they have demanded.

RICE, HOLLINSHEAD & BECKER,
Attorneys for Plaintiffs.

January 23, 1855.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

William Hollinshead, of said county, being duly sworn, says, that he is one of the attorneys for the plaintiffs in the above entitled action, and that the foregoing reply is true of his own knowledge, except as to matters which are therein stated upon information or belief, and that as to these matters he verily believes it to be true. That the means of his knowledge and the grounds of his belief upon the subject are, that the facts and allegations therein set forth have been stated to him by the plaintiffs, and he verily believes such statements to be true. That the reason why this verification is not made by the plaintiffs, nor either of them, is that they are all absent from the county where their attorneys reside.

WM. HOLLINSHEAD.

Sworn to and subscribed before me, January 23, 1855.

F. McCORMICK,
Notary Public.

The foregoing reply endorsed: Filed July 11, 1855.

GEO. W. PRESCOTT, *Clerk.*

In the District Court, in and for the second judicial district, and county of Ramsey, in the Territory of Minnesota.

Horce B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling, and Henry Stone,

against

William B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners, under the name and firm of Hayes & Snow; Phineas Freeman, surviving partner of the late firm of Charles P. Freeman & Co.; Lynn Starling, George W. B. Cushing, and Benjamin A. Hegemen, partners, under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners, under the name and firm of Freeman & Bright; William H. Bliss, John B. Briggs, Charles S. Douglass, William A. Wheelock and Charles B. Daly, partners, under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socarras, partners, under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners, under the name and firm of E. Corning & Co.; Roswell S. Benedict, William A. Hall, Lewis S. Benedict and Thomas Shaw, partners, under the name and firm of Benedict, Hall & Co.; Alin Higgins, Elias S. Higgins and Nathaniel D. Higgins, partners, under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen and Robert C. White, partners, under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners, under the name and firm of Binninger & Cozzens; William Curran, Henry Curran and Charles W. Borup.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

William Hollinshead, of said county, being duly sworn, says that no copy of an answer to the plaintiffs' complaint filed in this action has been received from the above named defendants, or any or either of them, except the defendant William B. Lawler.

WM. HOLLINSHEAD.

Sworn to and subscribed before me, the 8th day of August, A. D. 1855.

F. McCORMICK,
Notary Public.

The foregoing affi't endorsed: Filed Aug. 29, 1855.

GEO. W. PRESCOTT, *Clerk.*

District Court, 2d district, Territory of Minnesota, Ramsey county—May Term, 1855.

CLAFLIN, MELLEN & Co.
against
W. B. LAWLER and others.

This is an action brought to foreclose a mortgage given by Wm. B. Lawler to the plaintiffs. A jury trial having been waived by Rice, Hollinshead & Becker, attorneys for the plaintiffs, and Ames and Van Etten, attorneys for the defendants, in open court, the cause came on at this term to be heard before the presiding judge. The plaintiffs having introduced a certain note and mortgage, executed by the defendant Lawler, to the plaintiffs, the execution of which was admitted by the defendant Lawler, rested their cause.

The defendants then moved to dismiss the action for the following causes:

1st. Because the seal upon the mortgage deed is merely a device or stamp of the printer upon the blank form of the deed, and was not in fact made by the mortgagor.

2d. Because it did not appear from the certificate of the notary public, who acknowledged the deed, that he was in fact a notary public within and for the county of Ramsey.

3d. Because it appeared on the back of said note that the same had been endorsed to Messrs. Rice, Hollinshead & Becker, and that the endorsement was still in force.

Upon a full hearing of the cause, each of the motions was overruled.

Defendant then offers the depositions of James Curran and Anne Curran.

Objected to by plaintiff—

1st. Because they relate to conversations between Anne Curran and James Curran in the absence of the plaintiffs.

2d. Because they contradict the note and mortgage at their inception. The objection is overruled and the depositions admitted so far as they go to show the consideration of the note or a failure of consideration, but not to prove any contract or understanding between James Curran and Anne Curran inconsistent with the tenor of the note.

For the purpose aforesaid the depositions are read, and the defendant rests his defence.

Plaintiffs offer the depositions of Wm. H. Mellen, David H. Conkling, Horace B. Claflin and Henry Stone, plaintiffs in this action, which are objected to by defendant—

1st. Because it does not appear that Nathaniel F. Miller was examined, and because no reason appears why he was not examined, he being mentioned in the commission.

2d. Because it is incompetent to take the testimony of parties to a suit by commission.

3d. All the statements of James Curran to the plaintiffs are objected to.

4th. All the statements of the plaintiffs as to their dealings with Curran & Lawler are objected to.

These four several objections to the admission of the depositions were overruled, and the depositions were read.

Three promissory notes of Curran & Lawler to the plaintiffs are offered in evidence by plaintiffs. Objected to by defendants.

Objections overruled, and the notes are introduced and read.

Wm. Hollinshead introduced by the plaintiffs as a witness. His testimony objected to by the defendants. The objection overruled, and his testimony admitted.

And having fully heard the parties aforesaid by their respective counsel, I find, adjudge and determine that the defendant, William B. Lawler, did execute the note and mortgage mentioned in the complaint, and that he is indebted to the plaintiffs on account of said note and mortgage in the sum of four thousand four hundred and ninety-five dollars and forty cents, being the amount of said note with interest thereon from October 4th, A. D. 1853, (4,495 40.)

Dated July 11, 1855.

M. SHERBURNE, *Judge.*

The foregoing endorsed as follows: Filed July 11th, 1855.

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d district, county of Ramsey.

Horace B. Claflin, Wm. H. Mellen, Nathaniel F. Miller, David H. Conkling, and Henry Stone,

against

William B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners under the name and firm of Hayes & Snow; Phineas Freeman, surviving partner of the late firm of Charles B. Freeman & Co.; Lynn Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of Freeman & Bright; William H. Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Daly, partners under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Soccarras, partners under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners under the name and firm of E. Corning & Co.; Roswell S. Benedict, William A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of Benedict, Hall & Co.; Alvin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen, and

Robert C. White, partners under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, Charles W. Borup.

On reading and filing the affidavit of William Hollinshead, proving the service of the summons in this action on Charles W. Borup, one of the above named defendants, and the written admission of the due service of the said summons on Thomas T. Hayes and Lorenzo Snow, partners under the name and firm of "Hayes & Snow;" Phineas Freeman, surviving partner of the late firm of "Charles B. Freeman & Co.;" Lynn Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners under the name and firm of "Starling, Cushing & Hegeman;" Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of "Freeman & Bright;" William Bliss, John R. Briggs, Charles S. Douglass, William A. Wheelock, and Charles B. Daly, partners under the name and firm of "Bliss, Briggs & Douglass;" Patrick L. Rogers and Francisco de Socarras, partners under the name and firm of "P. L. Rogers & Co.;" Edward Corning and Jasper E. Corning, partners under the name and firm of "E. Corning & Co.;" Roswell S. Bennedict, William A. Hall, Lewis S. Bennedict, and Thomas Shaw, partners under the name and firm of "Bennedict, Hall & Co.;" Alvin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of "A. and E. S. Higgins & Co.;" Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of "Henry W. Haydock & Co.;" and Andrew C. Binninger and Frederick S. Cozzens, partners under the name and firm of "Binninger & Cozzens," by their respective attorneys, and the affidavit of due service of the said summons by publication on the defendants William Curran and Henry Curran, and the affidavit of William Hollinshead, one of the plaintiffs' attorneys, that no copy of an answer to the plaintiffs' complaint had been received by the said attorneys from the said defendants, or either of them, except from the defendant William B. Lawler, and the said complaint being taken as confessed as against the said defendants, other than said William B. lawler, and the said action having come on to be heard at the May term of the district court of Ramsey county, upon the complaint of the plaintiffs, and the answer of the said William B. Lawler thereto, before the presiding judge of said court, a jury trial therein having been waived by the respective parties, the same having been decided in favor of the said plaintiffs, and that there is due to the plaintiffs from the defendant William B. Lawler, on the notes and mortgages upon which the said action is brought, the sum of four thousand four hundred and ninety-five dollars and forty cents, with the interest thereon from the fourth day of October, one thousand eight hundred and fifty-three, amounting in all to the sum of five thousand and

eighty-four dollars and seventy-seven cents at the date of this decree; and it also appearing from the papers in this cause on file in the office of the clerk of this court, the complaint of the plaintiffs was filed in the said action on the twenty-ninth day of July, 1854, and the amended complaint on the thirteenth day of November, 1854—

On motion of Rice, Hollinshead & Becker, attorneys for the plaintiffs, it is hereby ordered, adjudged and decreed that the mortgaged premises described in the plaintiffs' complaint in this action, as hereinafter set forth, or so much thereof as may be necessary, and as may be sold separately without prejudice to the interest of the owner thereof, be sold at public auction, at the city of St. Paul, in the county of Ramsey, by the sheriff of said county; that the sheriff give public notice of the time and place of such sale according to law and practice of this court; that either or any of the parties in this action may purchase at such sale; that the said sheriff execute to the purchaser or purchasers a deed or deeds of the premises sold; that out of the moneys arising from such sale after deducting the amount of his fees and expenses on such sale, and any lien or liens upon said premises so sold at the time of such sale for taxes or assessments, the said sheriff pay to the plaintiffs or their attorneys the sum of forty-four dollars and fifty cents, adjudged to the plaintiffs for costs and charges in this action, with interest from the date hereof, and also the amount so found due as aforesaid, together with the legal interest thereon from the date hereof, or so much thereof as the purchase money of the mortgaged premises will pay of the same, and take a receipt therefor, and file it with the report of sale; that he bring the surplus money, if any, into court for the use of the defendant, or the person or persons entitled thereto, subject to the order of this court; that he make a report of such sale and file it with the clerk of this court with all convenient speed; that if the proceeds of such sale be insufficient to pay the amount so found due to the plaintiffs as aforesaid, with the said interest and costs, then the said sheriff specify the amount of such deficiency in his report of sale, and that the defendant, William B. Lawler, pay the same to the plaintiffs, and that the plaintiffs have execution therefor, and that the purchaser or purchasers at such sale be let into possession on the production of the sheriff's deed, and a certified copy of the order confirming the report of sale. And it is further ordered, adjudged and decreed, that the defendants, and all persons claiming under them or any or either of them, after the filing of the complaint of the plaintiffs in this action, be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said mortgaged premises so sold or any part thereof.

The following is a description of the mortgaged premises hereinbefore mentioned:

All the following described piece or parcel of land, situate, lying and being in the county of Ramsey, and Territory of Minnesota, known and designated as follows, to wit: being part of lot number (3) three, in block number thirty-two (32), in the town of St. Paul, forming an oblong square forty-two (42) feet on Third street, by eighty (80) feet on Robert street.

M. SHERBURNE, *Judge.*

August 18, 1855.

The foregoing decree endorsed: Filed Aug. 27, 1855.
GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, second district.

COUNTY OF RAMSEY, *ss.*

I, Geo. W. Prescott, clerk of the court above entitled, hereby certify that the foregoing is a true transcript of the several papers entitled as therein entitled, which compose the judgment roll in the cause therein entitled, and which original papers are on file in said cause in said clerk's office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at St. Paul, in said county, this 12th day of January, A. D. 1856. [SEAL.]

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, second district, county of Ramsey.

Horace B. Claflin, Wm. H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone, Plaintiffs,

against

William B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners under the name and firm of Hayes & Snow; Phineas Freeman, surviving partner of the late firm of Charles B. Freeman & Co.; Lynn Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of Freeman & Bright; Wm. H. Bliss, John R. Briggs, Charles S. Douglass, Wm. A. Wheelock, and Charles B. Daly, partners under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socarras, partners under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners under the name and firm of E. Corning & Co.; Roswell S. Benedict, Wm. A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of Benedict, Hall & Co.; Alvin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of A.

& E. S. Higgins & Co.; Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, and Charles W. Borup, Defendants.

To Messrs. RICE, HOLLINSHEAD & BECKER,
Plaintiffs' Attorneys,
and GEORGE W. PRESCOTT, Esq.,
Clerk of the District Court aforesaid.

Please to take notice that the above named defendant, Wm. B. Lawler, appeals to the supreme court of the Territory of Minnesota from the judgment and decree of the district court aforesaid, entered in this action, dated on the eighteenth day of August, A. D. 1855, in favor of the plaintiffs, for the sum of five thousand and eighty-four dollars and seventy-seven cents damages, and forty-four dollars and fifty cents for costs and charges.

Dated Saint Paul, November 20th, 1855.

Yours, respectfully,
AMES & VAN ETTEN,
Att'ys for Def't Wm. B. Lawler.

The foregoing notice of appeal endorsed: We admit service upon us of the notice of appeal, of which the within is a copy, this 21st day of November, 1855.

RICE, HOLLINSHEAD & BECKER.
Per A. B.

Filed Nov. 23, 1855.

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, District Court, 2d district, county of Ramsey.

I, Geo. W. Prescott, clerk of the court above entitled, hereby certify that the foregoing is a true copy of the notice of appeal in the cause therein entitled, which is on file in said clerk's office.

In testimony whereof, I have hereunto set my hand and affixed [SEAL.] the seal of said court at Saint Paul, in said county, this 12th day of January, A. D. 1856.

GEO. W. PRESCOTT, *Clerk.*

(The foregoing endorsed:)

Supreme Court, Territory of Minnesota. Claflin, Mellen & Co., respondents, against Wm. B. Lawler and others, appellants. Appeal papers from dist. court, Ramsey county. Trans. of roll.

Filed in sup. court Jan. 12, 1856.

In the Supreme Court of the Territory of Minnesota.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling and Henry Stone, Respondents,
against
WM. B. LAWLER and others, Appellants.

To Messrs Rice, Hollinshead & Becker, Attorneys and Counsel for respondents:

The following are the points and authorities made and relied upon by the appellants in the above entitled action:

First. That the hon. judge of the district court erred in receiving and allowing the depositions of the plaintiffs to be read and used in evidence upon the trial of the cause, and in overruling the objections of the defendants' counsel to the same.

Secondly. That the testimony contained in the plaintiffs' depositions is immaterial and not relevant to the issue made in the pleadings, and not applicable to any material point or principle in the cause.

Thirdly. That the legal character and object of the mortgage is that of security for the debt.

That the debt is the principal, and the mortgage is merely the incident to the debt, and that the payment or discharge of the debt which the mortgage is given to secure is in itself, both at law and in equity, a discharge of the mortgage, and is a good defence to an action for the foreclosure of the mortgage. That any defence that might be successfully made to an action brought upon the note for its recovery is equally admissible, and may be interposed and sustained to an action brought for a foreclosure of the mortgage given to secure the note.

See 4 Kent Com., page 193, (marginal); 1 Hillard on Mort., 327; 8 Ohio Reports, 222; 10 Ohio Reports, 440; 1 Hillard on Mort., 323, sec. 46; same, 324; same, 385, 1 and 2; same, 31 and 32; same, 593.

Fourthly. That the original total want of consideration for the note in question of $4,000, accompanying the mortgage, and the subsequent payment of the $2,126 08 of actual indebtedness, for which the note and mortgage in question were given as collateral security, is in law a discharge and satisfaction of the mortgage, and constituted a complete defence to this action.

See Story on Prom. Notes, page 212, sec. 187; Chitty on Bills, page 80 to 90—9 Am. ed.; 2 Wend. Rep., page 431; 12 Wend. Rep., page 247; 3 Wend. Rep., page 238; 8 Wend. Rep., page 109; 3 N. H. Rep., page 455; 4 ditto Rep., page 444; 12 Pick Rep., page 545; 24 ditto Rep., page 141.

Fifthly. That the parol evidence contained in the depositions on the part of the defendants was admissible, legal, and proper evi-

dence to prove the facts constituting the defence in the action as stated in the answer, and should be received for that purpose.

See 24 Pick Rep., page 141; 4 Kent's Com., page 142; 24 Wend. Rep., page 36; 9 ditto Rep., page 227, 14 Wend. Rep., page 63; 14 Johns. Rep., page 209; 1 Paige's Chan. Rep., page 147; 1 Hilliard on Mort., pages 31 and 32; 1 Johns. Chan. Rep., pages 582 and 593; 2 vol. U. S. Dig., pages 301 and 2; 8 Wend. Rep., page 641; 16 Wend. Rep., page 460; 14 John. Rep., page 209; 17 Mass. Rep., pages 249 and 256; 20 Johns. Rep., page 338; 1 Hilliard on Mortg., page 324; Same, 385.

Sixthly. That James Curran had no power or authority whatever, either expressly, given, or implied, from the facts and circumstances of the transactions, to bind Lawler or to affect Lawler's rights, as mortgagor, in relation to the mortgage or mortgaged premises, by any acts or representations of his concerning the mortgage and its delivery to the plaintiffs, different from the purpose and object for which it was executed; and that the misapplication of the mortgage by Curran, and the object and purpose for which the plaintiffs claim to hold it, is unauthorized, illegal, and a fraud upon the judgment creditors of Lawler.

See 3 Kent's Com., pages 42 and 43; 1 East. Rep., page 48; 4 John. Rep., page 351; 19 ditto Rep., page 154; 16 ditto Rep., page 38; 1 Wend. Rep., page 529; 2 Cox Rep., page 512; 2 Cain's Rep., page 246; 15 Pick. Rep., page 276; Story on Partnership, sec. 154 and 112, page 167; Chitty on Bills, page 33.

Seventh. That it was the duty of the plaintiffs, upon receiving the mortgage, and in the exercise of ordinary prudence, to have made inquiry, and ascertained from the mortgagor or his attorney in fact the real purpose for which the mortgage was executed and delivered, and in not doing so they were guilty of laches and neglect, and acquired no right or title under the mortgage beyond the purpose for which it was executed, and cannot enforce it to the prejudice and loss of Lawler's judgment creditors, having junior liens upon the mortgaged premises.

Yours, respectfully,

AMES & VAN ETTEN,
Attorneys and Counsel for Appellants.

Dated January 14, 1856.

(The foregoing endorsed:)

Appellants' points and authorities.
Filed Jan'y 22, 1856.

GEO. W. PRESCOTT, *Clerk.*

CLAFLIN, MELLEN & Co., Appellees,
vs.
W. B. LAWLER et al., Appellants.
} Supreme Court, Jan. Term, 1856.—Brief and Points.

That one of the witnesses named in the plaintiffs' commission to

take testimony out of the Territory was not examined by the commission, nor any reason assigned why he was not, is no objection to the admission of the commission and the testimony of other witnesses taken under it.

Rev. Stat. Min., pg. 475, sec. 29.

The admission or rejection of a commission to take the testimony of witnesses residing out of the Territory, in consequence of any informality in its execution, is a matter resting in the discretion of the court, and not the subject of error.

Rev. Stat. Min., pg. 475, sec. 29.

Parties, as well as strangers, being witnesses under the statute, the testimony of non-resident parties, like that of any other witnesses, may be taken by commission.

Amend. to Rev. Stat., pg. 20, sec. 93; Rev. Stat., pg. 475, sec. 25.

The making and execution of the mortgage being fully admitted by defendants' answer, he is estopped from objection to its admission in evidence on the grounds of any informality in its execution.

Any device adopted or acknowledged by the party is a sufficient seal; and having once admitted it to be his seal, if only a flourish of the pen, he cannot afterwards call it into question or deny that it is a seal.

4 Kent., 501 and 502, with cases there cited; 3 Phil. Ev. 1,277, '8, and '9, and cases there cited.

An acknowledgment made before a notary public, who merely signs his name, with the addition of N. P. or notary public, is sufficient, and courts will give full credit to the act, presuming that the officer doing the act did it properly, and within his proper jurisdiction.

Chitty's Bills, 333, and note at bottom of page; 12 vol. U. S. Dig., 452, Notary Public.

The placing of the note and mortgage in the hands of Curran by the attorney in fact of the defendants, for the purpose of having them carried to New York and delivered to the plaintiffs, constituted him the agent of the defendant for that purpose; and his representations to the plaintiffs at the time of the delivery are competent evidence to show the application of the note and mort.

1 vol. Phil. Ev., 99; 2 vol. Id. 186, et seq.; 3 Mich., 390; 15 Barb., 506.

Parol evidence is inadmissible to alter, vary, or discharge a written obligation.

7 Miss., 515; 5 ed., 101; 4 U. S. Dig., pg. 735; 2 vol. U. S. Dig., pg. 294, secs. from 2,053 to 2,095, et seq.; 4 Wash. C. C. Rep., 308; 14 Peters, 488; (3 Mich., 390.)

Parol evidence of declarations or conversations at the time, or anterior, or subsequent to the execution of a written obligation, are inadmissible to change, vary, or discharge such obligation.

3 Wash. C. C. R. 184; 10 Peck, 279; 6 Id., 492; 8 Cowen, 543

15 Mass., 85; 7 Watts, 517; 2 Ashmead, 313; 2 vol. U. S. Dig., pg. 294, et seq., and cases there cited; 1 Root., 253, Skinner vs. Hendrick.

Parol evidence of declarations and conversations made at the time of executing the mortgage, or of delivering it to James Curran, the agent of the defendant, and in the absence of the plaintiff, are inadmissible to show that it was the intention of the obligor to have it delivered for any other purposes than those named in the condition of said mortgage.

1 Peters' R. 85—87; 1 Stewart, 425; 3 Wash. C. C. R., 184; 1 Binn., 610; 3 Sergt. R., 240; 11 ed., 328; 7 Watts, 517.

There was no error in the admission of the testimony of the plffs. or the rejection of that of Anna and James Curran, so far as the same was rejected.

Cases above cited; 3 Sumner C. C. R., 488; 2 Peters' Dig. of Fed. Cts., 294, sec. 95; 3 Cranch, 75.

D. COOPER,
Atty. for Defts. in Error.

Jan. 14, 1856.

The foregoing points and authorities endorsed: Filed Jan'y 14, 1856.

GEO. W. PRESCOTT, *Clerk.*

Jan. 22. January General Term, A. D. 1856, 7th day.

CLAFLIN, MELLEN & Co., Respondents, *against* WM. B. LAWLER and others, Appellants. } Appeal from the District Court, Ramsey county.

This day came the parties, by their attorneys, and thereupon this cause came on to be heard upon the return to the appeal from the district court of Ramsey county, and upon the grounds assigned for error, and was argued by the counsel of the respective parties and submitted to the court.

A true record.

Attest: GEO. W. PRESCOTT, *Clerk.*

I hereby certify the foregoing to be a true copy of the minutes of court made in the above entitled action.

Attest: GEO. W. PRESCOTT, *Clerk.*

Feb. 2. January General Term, A. D. 1856, 15th day.

CLAFLIN, MELLEN & Co., Respondents, *against* WILLIAM B. LAWLER and others, Appellants. } Appeal from the District Court of Ramsey county.

The matters at issue in this cause having been fully considered, it appears to this court that in the proceedings, decree, and judgment thereon in the district court of Ramsey county, to this court appealed from, there is no errror. It is therefore ordered that

said decree and judgment be in all things affirmed, with costs to respondents, and that this cause be remitted to said district court for further proceedings therein.

A true record.

Attest: GEO. W. PRESCOTT, *Clerk.*

I hereby certify the foregoing to be a true copy of the record made in the above entitled action.

Attest: GEO. W. PRESCOTT, *Clerk.*

Supreme Court—Territory of Minnesota.

Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling and Henry Stone, Respondents,

against

William B. Lawler, Thomas T. Hayes, and Lorenzo Snow, partners under the name and firm of Hayes & Snow; Phineas Freeman, surviving partner of the late firm of Charles B. Freeman & Co.; Lynne Starling, George W. B. Cushing, and Benjamin A. Hegeman, partners under the name and firm of Starling, Cushing & Hegeman; Alexander H. Freeman and Aaron S. Bright, partners under the name and firm of Freeman & Bright; Wm. H. Bliss, John R. Briggs, Charles S. Douglass, Wm. A. Wheelock, and Charles B. Daly, partners under the name and firm of Bliss, Briggs & Douglass; Patrick L. Rogers and Francisco de Socaras, partners under the name and firm of P. L. Rogers & Co.; Edward Corning and Jasper E. Corning, partners under the name and firm of E. Corning & Co.; Roswell S. Benedict, Wm. A. Hall, Lewis S. Benedict, and Thomas Shaw, partners under the name and firm of Benedict, Hall & Co.; Alvin Higgins, Elias S. Higgins, and Nathaniel D. Higgins, partners under the name and firm of A. & E. S. Higgins & Co.; Henry W. Haydock, William A. Allen, and Robert C. White, partners under the name and firm of Henry W. Haydock & Co.; Andrew G. Binninger and Frederick S. Cozzens, partners under the name and firm of Binninger & Cozzens; William Curran, Henry Curran, and Charles W. Borup, Appellants.

The order of court having been duly made and entered in this cause on the second day of February, A. D. 1856, affirming the decree and judgment of the district court of Ramsey county, with costs to respondents in this court, and for a remittitur to said district court for further proceedings; now, on motion of Hollinshead & Becker, attorneys for said respondents, it is hereby adjudged, that the said respondents recover of the appellant, William B. Lawler, the sum of thirty dollars and twenty-five cents costs, taxed in this court.

G. W. PRESCOTT, *Clerk.*

Dated Feb'y 14, 1857.

For proceedings before argument	$10 00
For argument	15 00
Clerk's fees	5 25
	$30 25

(The foregoing endorsed:)

Supreme Court. Claflin, Mellen & Co., resp'dts, against Wm. B. Lawler & others, ap'llts. Judgment roll.

Filed in sup. court, Feb'y 14, 1857.

GEO. W. PRESCOTT, *Clerk.*

CLERK'S OFFICE SUPREME COURT,
Territory of Minnesota.

I, Geo. W. Prescott, clerk of the above entitled court, certify the foregoing to be a full and true transcript of the judgment roll in the cause therein entitled, which is filed and made a record of said court in said clerk's office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said supreme court, at St. Paul, this 27th day of August, A. D. 1857. [SEAL.]

GEO. W. PRESCOTT, *Clerk.*

In the District Court, in the second judicial district and county of Ramsey, in the Territory of Minnesota.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling and Henry Stone, Plaintiffs,
against
WILLIAM B. LAWLER and others.

The deposition of James Curran, a witness produced and sworn before me on the part of the defendants, at the dwelling-house of David O. Oakes, in the city of Saint Paul, on this fifth day of May, 1855, at three o'clock in the afternoon, and after being by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth, relating to the above entitled cause—

James Curran deposes and says: I reside at Prescott, in Pierce county, State of Wisconsin. I resided in St. Paul, Minnesota Territory, on the first day of October, 1852; at that time I was in partnership in the mercantile business at St. Paul, with the defendant, William B. Lawler, under the name of the firm of Curran & Lawler. I had purchased a bill of goods from the plaintiffs' firm at New York city, for the amount of four thousand two hundred and fifty-two dollars and sixteen cents, in August, 1852; that was the only purchase I made from the plaintiffs previous to October, 1852. Previous to the first of October, 1852, I paid the plaintiffs one-half of the amount, twenty-one hundred and twenty-six dollars and eight cents. Our firm, Curran & Lawler, was in-

debted to the plaintiffs in the sum of twenty-one hundred and twenty-six dollars eight cents on the first day of October, 1852. That was the whole amount owing by our firm to the plaintiffs at that time. I was present at the time that the mortgage and note mentioned in the complaint were executed; they were executed by Anna Curran, the attorney in fact for William B. Lawler. Anna Curran delivered the note and the mortgage to me; that was, at that time the mortgage bears date.

Quest. Was there any condition made by Anna Curran, who executed them at that time of the execution and delivery of the note and mortgage, for executing and delivering them?

Objected to by plaintiffs' attorneys on the ground that the papers themselves are the best evidence of the condition upon which they were delivered, and that condition cannot legally be contradicted by parole.

Answ. There was a condition.

Ques. What was that condition?

Objected to by plaintiffs' attorneys for the same reason.

Answer. The condition was to secure the plaintiffs in the amount then owing them by Curran & Lawler.

Ques. State whether you made any representation to Anna Curran, as the attorney in fact of William B. Lawler, to induce her to execute the note and mortgage to the plaintiffs?

Objected to as before, by plaintiffs' counsel.

Answer. I did make representations.

Quest. What were those representations?

Objected to by pl'ffs' counsel.

Answer. The representations I made to her were these: that we wished to buy more goods from the plaintiffs on credit, but we were desirous of securing the amount then owing them before asking more credit. I represented to her that the note that Curran & Lawler was owing them would not become due until December, 1852; that it was necessary for us to have our stock renewed for the fall and winter trade, and wished to secure them, the plaintiffs, the amount then owing them by mortgage, before asking more credit, according to promise which I had made them before in New York, that I would secure the amount then owing them.

Quest. State whether you said anything to her about securing any future indebtedness that might accrue for subsequent purchases?

Objected to by pl'ffs' counsel.

Answer. I did not.

Quest. State whether you informed Anna Curran of the amount then owing from Curran & Lawler to the plaintiffs?

Objected to by pl'ffs' counsel.

Answer. I did not inform her of the amount.

Question. Do you know whether she knew the precise sum or amount owing by Curran & Lawler to the plaintiffs at that time?

Objected to by pl'ffs' counsel.

Answer. I know she did not know the amount.

Question. At whose request did she execute the note and mortgage?

Objected to by pl'ffs' counsel.

Answer. At my request and solicitation.

Quest. State what the sole and exclusive purpose and object was, for executing and delivering the mortgage and note by Anna Curran at that time?

Objected to by pl'ffs' counsel.

Answer. To secure the amount then owing them, the pl'ffs, for our first purchases before asking more credit from them.

Quest. State whether you mentioned or represented to her any other purpose or object for executing the note and mortgage?

Objected to by pl'ffs' counsel.

Answer. I did not.

Quest. State upon what condition, and for what purpose, she delivered the note and mortgage to you?

Objected to by pl'ffs' counsel.

Answer. Upon my solemn promise and assurance to her that when they were paid, the amount then owing to them, the pl'ffs', that the mortgage would be released and the property free.

Quest. State whether she at that time objected to incumbering the property mortgaged for any other purpose?

Objected to by pl'ffs' counsel.

Answer. It was only for that object that she would give it, and then with a great deal of reluctance.

The def't, William B. Lawler, was not present, nor within the Territory of Minnesota, at that time the mortgage and note were executed and delivered to me.

Quest. State whether the def't, William B. Lawler, was in the Territory any of the time during the fall 1852?

Objected to by plaintiffs' counsel.

Answer. He was not in the Territory in any part of the time of the fall 1852.

Quest. Had the def't, W. B. Lawler, any knowledge of the transactions of the giving of the note and mortgage before or at that time the same were given?

Objected to by pl'ts' counsel.

Answer. He had not.

Question. State whether you have ever paid the plaintiffs' the amount owing from the firm of Curran & Lawler at that time the note and mortgage were given; and if so, what amount, when, how?

Objected by pl'fs' counsel.

Answer. I paid the amount which Curran & Lawler were indebted to the pl'ffs at the time the mortgage and note were exe-

cuted, and delivered afterwards on the fifteenth day of December, 1852, by the order of the plaintiffs, to James Carter & Co., at Galena, in the State of Illinois; the amount I paid them there was twenty-one hundred and twenty-six dollars and eight cents.

Quest. State whether that was the whole amount due to the plaintiffs from Curran and Lawler at that time the note and mortgage were executed and delivered?

Objected to by pl'ffs' counsel.

Answer. It was the whole amount owing them at that time of the execution and delivery of the note and mortgage.

The note here produced and shown to the witness, dated August 12, 1852, payable four months after date, marked "Exhibit A," and annexed to this deposition. He testifies it was made by me on behalf of the firm of Curran & Lawler, and delivered to the plaintiffs; that note comprised the full amount owing to the plaintiffs by the firm of Curran & Lawler at that time the note and mortgage were given.

This is the note I paid to James Carter & Co., as above mentioned.

Two notes and one draft presented to the witness, marked severally "Exhibit B," C, and D; the two notes, both dated October 21st, A. D. 1852; "B," payable forty days after date, for the sum of eight hundred and eighty dollars and ninety-two cents; C, payable four months after date, for the sum of four thousand dollars; D, drawn and payable thirty days after date, for one thousand dollars.

Quest. Were the notes given by your firm, and to whom?

Objected to by pl'ffs' counsel.

Answer. The notes were given by our firm to plaintiffs.

Question. Was the draft or bill drawn by pl'ffs on your firm accepted by your firm?

Objected to by pl'ffs' counsel.

Answer. It was accepted and paid by our firm.

Question. State whether the above notes have been paid; and if so, by whom, at what time or times, and to whom?

Objected to by plaintiffs' counsel.

Answer. The note marked "B" was paid December the third, 1852, by Curran & Lawler, to the order of the pl'ffs, to James Carter & Co., of Galena.

The note marked "Exhibit C," one thousand dollars, was paid upon it on the 21st or 28th day of February, 1853, as per endorsement on the note and statement in account current rendered to us. It strikes me that the balance of three thousand dollars on this note was renewed by including it in new notes given for purchases of other goods in April, 1853. The notes marked "Exhibits B and C," and the draft or bill marked "Exhibit D," are hereto annexed.

Question. State whether you gave to the pl'ffs, in behalf of Curran & Lawler, three notes of date April 22d, 1853, one payable two months after date, for five hundred dollars, another three months after date, for twelve hundred and ninety-three dollars and nine cents, the other four months after date for $1,293 respectively?

Objected to by pl'ffs' counsel.

Answer. I did. I gave them for and on account of bills of goods purchased by Curran & Lawler from the plaintiffs. I have given notes for others, and all purchases made by Curran & Lawler from the plaintiffs. I have given notes, at different times, for all indebtedness ever contracted by Curran & Lawler with the plaintiffs.

Question. State whether you have at different times given notes and acceptances on behalf of and signed by the firm name of Curran & Lawler, exclusive of the note and mortgage in this suit, to the plaintiffs for all bills of goods, wares and merchandise purchased by Curran & Lawler from them, and whether the notes and acceptances so given by you to the plaintiffs, exclusive of the mortgage and note accompanying it, comprises all indebtedness which exists from Curran & Lawler to the plaintiffs.

Objected to by pl'ffs' counsel.

Answer. I have given them, and they comprise all the indebtedness aside from the note and mortgage.

Quest. State whether any actual or existing indebtedness from the firm of Curran & Lawler, or either of them, to the plaintiffs, is comprised or included in the note and mortgage mentioned in the complaint in this action?

Objected to by pl'ffs' counsel.

Answer. There is none; they have other acceptances and notes of Curran & Lawler in settlement of all the indebtedness.

State whether the indebtedness and liability of Curran & Lawler to the pl'ffs, for which this mortgage and note was given to secure, has been wholly paid to the pl'ffs or not?

Objected to by pl'ffs' counsel.

Answer. It has been wholly paid—the indebtedness at the time the making the mortgage. The bills containing account current, marked Exhibits "E" and "F," and annexed to the deposition, being Curran & Lawler's account current with the pl'ffs, shown and offered to witness. The last entry in "E" is August 14th, 1852; the last entry in F is Feb. 24, 1853. These are the original accounts current of Curran & Lawler with the pl'ffs, rendered and handed to me by Morehouse, the bookkeeper of the pl'ffs, in the presence of the firm and with their knowledge; E was rendered August 14, 1853; F was rendered in April, 1853, or in March of that year.

Here offered the Exhibits "E" and "E," in evidence and annexed.

The admissibility of the accounts current, and answer in relation to them, objected to by pl'ffs' counsel.

When were the first purchases next made by the firm of Curran & Lawler from the pl'ffs after those made in August, about which you have testified?

Objected to by pl'ffs' counsel.

They were made the 21st and 23d of Oct., 1852.

Was that the first indebtedness that accrued to the pl'ffs from Curran & Lawler after the note and mortgage in suit were given?

Obj'd by pl'ffs' counsel.

Answer. It was.

The witness being cross-examined by pl'ffs' counsel, deposed as follows:

When was the firm of Curran & Lawler first formed, and where?

Objected by def'ts' counsel as immaterial.

Answer. About the 4th of May, 1852. The firm consisted of William B. Lawler and myself; the William B. Lawler is identical with the Wm. B. Lawler who gave the note and mortgage, by Anna Curran, his att'y.

When did he leave the Territory of Minnesota after the formation of this co-partnership?

Obj'd as immaterial.

Answer. I think he left some time about the 28th of May or the first of June, 1852.

By whom was the business of the firm managed after his departure?

Obj'd as immaterial.

Answer. By myself; I managed the business altogether; I boug'at the goods and sold them, and superintended the business.

Obj'd to by def'ts' counsel as immaterial, impertinent and irrelevant.

Were the purchases made in the name of Curran & Lawler, and for them jointly?

Obj'd to by def'ts' counsel as irrelevant.

Answer. The purchases were made for the firm of Curran & Lawler, and for them jointly.

Was this done with the knowledge and consent of Wm. B. Lawler and Anna Curran, his attorney in fact?

Obj'd to by def'ts' counsel as immaterial, irrelevant and otherwise illegal.

Answer. It was done with Lawler's knowledge and consent, according to the co-partnership articles agreed on by us; we complied with the co-partnership articles. Anna Curran had nothing to do with our mercantile pursuits; had no knowledge of the co-partnership articles.

To whom did you render an account for Lawler's interest in the concern?

Obj'd to as irrelevant and immaterial.

Answer. I did not account to any one; I have not been called on for a settlement.

By whom and for whom was this property purchased, the property described in complaint?

Obj'd to as irrelevant and immaterial.

Answer. The records will show that, and is my answer.

By whom and for whom was the property mortgaged and described in the complaint improved and built upon?

Obj'd as before.

For the owner of course; that is my answer; I superintended the improvements made on the property.

Who paid for them?

Obj'd to as immaterial.

Answer. It was paid by the firm of Curran & Lawler out of the receipts of the firm, and charged to the individual account of Wm. B. Lawler.

Where and in whose possession are the account-books of Curran & Lawler?

Obj'd to by def'ts' counsel upon grounds that it is irrelevant and immaterial.

Answer. They are in my possession.

Where?

Objected to as immaterial and irrelevant.

Answer. At Prescott, in the State of Wisconsin.

By whom was the property of Lawler not in the firm managed after his departure from the country?

Obj'd to as before.

Answer. My wife, Anne Curran, had a power of attorney in regard to all his real estate not in the firm.

Who occupied the property mortgaged after it was improved?

Obj'd to as before.

Answer. Part of the time by myself and family, and afterwards by a tenant, under Lawler, by a lease from Lawler. I delivered the note and mortgage to the pl'ffs; it was between 1st and 20th of October, 1852, but before the 20th of Oct. My impression is it was some time about the middle of October, 1852, delivered in their store in New York city. The pl'ffs, nor either of them, were in N. Y. at the time the note and mortgage were given, to my knowledge.

At the time you delivered the mortgage and note to the pl'ffs, what did you state to the pl'ffs?

Objected to as immaterial irrelevant.

Answer. On my first purchase, in Aug., 1852, I told them I would have to return again in Oct. for my fall and winter supplies, which would be two months before my indebtedness for the balance of that purchase would become due, and that I thought it would be only right, before making the purchases on credit for the fall and winter, and before the amount then owing them was paid, to bring them a mortgage upon real estate as collateral security for the first

transaction, and that it was all-important to our firm to buy goods in Oct., as we couldn't have them brought to St. Paul after that date by navigation. I told them the amount I am owing you is so, and on my coming here in Oct., there are a great many inducements to buy goods at auction, on city acceptances or for cash, and it may be necessary for me to draw on you for some small amounts, and I will make the mortgage $4,000, in order to secure you in case I should draw.

Do you swear that Claflin, Mellen & Co. agreed that you might draw on them for cash on a mortgage upon real estate in Minnesota?

Objected to as irrelevant and immaterial.

Answer. I don't swear to any such thing.

Did you not give that mortgage to Claflin, Mellen & Co., to secure them for purchases made and to be made from them on account of Curran & Lawler?

Objected to.

I didn't understand it so; I gave it to secure the indebtedness Curran & Lawler then owed them, and any sums I might draw for as I before stated.

Have you not repeatedly, since the giving of that mortgage and note, stated to the firm of Claflin, Mellen & Co., that they were secured in the sum of $4,000 on account of purchases made by you?

Obj'd to as irrelevant and immaterial.

Answer. I have had many conversations with them, and have said so.

When and where did you say so?

Obj'd to as the last.

Ans'r. I think the first *the first* time I ever had occasion to say so was when old difficulties, disconnected with the firm of Curran & Lawler, overtook me in New York. I think the matter was hinted to the firm, after my October purchases in 1852, that I had some old things hanging over me of my individual indebtedness, upon which I was arrested in April, 1853; this matter went to them, and I told them they need not fret, as they had a mortgage for $4,000.

Did you not state, at or about the time this note and mortgage to pl'ffs were made, that it was given to secure them for purchases made and to be made of the pl'ffs?

Objt. to as irrelevant and immaterial.

Answer. I think not; it was to secure the old transaction. I know Henry Stone, one of the pl'ffs; I saw him in St. Paul in July, 1853.

Do you remember stating to him at that time that he need not be uneasy about the claim, as the pl'ffs were secured by a mortgage of $4,000, and that the balance would be paid?

Objected to as irrelevant and immaterial.

Answer. I remember another person stated that, and I acquiesced in it. I shouldn't wonder if I made that statement to Henry Stone in your presence, Wm. Hollinshead; don't doubt much but I did.

What amount of goods in all have Curran & Lawler bought of Claflin, Mellen & Co.?

Obj'd to as before.

Ans'r. Over eleven thousand dollars, as appears from the accounts appended to the depositions of these pl'ffs, which I believe to be correct.

What amount have they paid to the pl'ffs from the beginning on account of purchases in money or its equivalent?

Obj'd to.

I believe almost $7,000—in that neighborhood.

Look at the draft marked "D" for $1,000 in evidence, and the note for $4,000 in evidence, and state whether the draft for $1,000, and the endorsement on the note for $1,000, are not the same sum of money?

I can't state without reference to my books, and they are not now here.

On re-direct examination the witness testified as follows:

Question. State if you was authorized by Wm. B. Lawler, or his attorney in fact, to make any statements or representations to Mr. Stone, one of the pl'ffs, or to any or either of the pl'ffs, at any time, that the mortgage for $4,000 mentioned in the complaint was security to the pl'ffs, or would be paid to them in any manner.

Obj'd to by pl'ffs' counsel.

No.

Question. If any such representation was made, was either Wm. B. Lawler or Anne Curran, his attorney in fact, present, or did they or either of them, to your knowledge, know of any such statement having been or being made by you? Did you make such statement at your own option, and without the knowledge of Lawler or Anne Curran?

No; I made it without their knowledge or consent.

JAMES CURRAN.

Sworn to and subscribed before me, in my presence, this 5th day of May, 1855.

JOSEPH LEMAY,
Justice of the Peace.

$2,126 $\frac{8}{100}$. NEW YORK, *Aug.* 12, 1832.

Four months after date we promise to pay to the order of Claflin, Mellen & Co., twenty-one hundred and twenty $\frac{8}{100}$ dollars, at office

of Jas. Carter & Co., Galena, Ill. Value received, with current exchange.

Due Dec. 12|15.

CURRAN & LAWLER.

[*Endorsed.*]

Exhibit "A" referred to in the foregoing deposition.

JOSEPH LEMAY,
Justice of the Peace.

CHAFLIN, MELLEN & Co.

Pay Jas. Carter & Co., or order.

E. BUTLER.

Ass. 69.

Rec'd pay't,
JAMES CARTER & CO.

880 $\frac{92}{100}$.

Forty days after date we promise to pay to the order of Claflin, Mellen & Co., eight hundred and eighty $\frac{92}{100}$ dollars, at office of Jas. Carter & Co., Galena, Ill. Value received, with current exchange.

No. . Due Dec. 3d, $\frac{10}{30}$.

CURRAN & LAWLER.

[*Endorsed.*]

Exhibit "B" referred to in the foregoing deposition.

JOSEPH LEMAY,
Justice of the Peace.

Pay Mess. J. H. Birch & Co., or order.

CLAFLIN, MELLEN & CO.

Pay J. Carter & Co., or order.

J. H. BIRCH & CO.

Paid.

JAS. CARTER & CO.,
Pr. WM. H. SUYSUN.

$4,000. NEW YORK, *Octo.* 21*st*, 1852.

Four months after date we promise to pay to the order of Claflin, Mellen & Co., four thousand dollars, at office of Mess. Strahan & Scott, N. Y. Value received.

CURRAN & LAWLER.

No. . Due Feb'y 21|24, 1853.

[*Endorsed.*]

1,000. Pd. Feb'y 21. Rec'd Feb'y 28.

Exhibit "C" referred to in the foregoing deposition.

JOSEPH LEMAY,
Justice of the Peace.

$1,000. NEW YORK, *Jan'y 18th*, 1853.

Thirty days after date pay to the order of ourselves one thousand dollars, payable at the office of Jas. Carter & Co., with current exchange, value received, which place to the account of , as advised.

To Messrs. Curran & Lawler, Galena, Ill.

CLAFLIN, MELLEN & CO.

[*Endorsed.*]

Exhibit "D" referred to in the foregoing deposition.

JOSEPH LEMAY,
Justice of the Peace.

Pay Mess. Jas. Carter & Co., or order.

CLAFLIN, MELLEN & CO.

Rec'd payment. C. & CO.

Charged in ac't.

CURRAN & LAWLER,
Pr. HEENAN.

Messrs. Curran & Lawler to Claflin, Mellen & Co.

1852, Aug. 11.	To mdse	$1,816 41	
12.	Do.	1,960 21	
13.	Do.	528 49	
			4,305 11
	Less 2½ p. c. on $2,118		52 95
			4,252 16
	Cr. by cash		1,300 00
			2,952 16
Settled by acceptance *a* 30 days, dates Aug. 14, payable at office of Jas. Carter & Co., Galena, Ill		$826 08	
And note dated Aug. 12, *a* 4 mos., payable at Jas. Carter & Co., Galena		2,126 08	
			2,952 16

New York, Aug. 14.

CLAFLIN, MELLEN & CO.,
Pr. MOREHOUSE.

[Endorsed:] Exhibit "E," referred to in the depositions.

Messrs. Curran & Lawler, St. Paul, Minnesota, to Claflin, Mellen & Co.

1852, Aug. 11. To mdse. 4 mos $1,802 16

1852, Aug. 12.	To mdse. 4 mos.....	$1,960	21
13.	Do. do.	475	54
16.	Do. do.	14	25
Octo. 21.	Do. do.	4,791	58
23.	Do. do.	89	34
		9,133	08

Cr.

Aug. 12.	By cash.....	$1,000	00
14.	Do.	30	00
14.	By draft, 30 days.....	826	08
12.	note *a* 4 mos.....	2,126	08
Octo. 21.	Do. 40 days.....	880	92
21.	Do. 4 mos.....	4,000	00
		9,133	08

1853, Jany. 18.	To mdse. 4 mos.....	$462	29
Feby. 24.	To note.....$4,000 00		
	Less, Feb'y 28, cash..... 1,000 00		
		3,000	00
		3,462	29

[*Endorsed.*]

Exhibit "F," referred to in depositions of James Curran.

JOSEPH LEMAY,
Justice of the Peace.

The deposition of Anne Curran, a witness produced and sworn before me, on the part of the defendants, at the dwelling-house of David O. Oakes, in the city of St. Paul, on the 5th day of May, 1855, at three o'clock p. m., and after being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, relating to the above entitled cause—

Anne Curran says: I reside in Prescott, in the State of Wisconsin; I was the attorney in fact of Wm. B. Lawler, the first of October, 1822; as such attorney I gave a mortgage to the pl'ffs—it was the mortgage in suit; I also gave a note at the same time. James Curran gave me to understand that Curran & Lawler were owing the pl'ffs' house an amount, and that he wished to secure to the pl'ffs what the firm of Curran & Lawler were then owing the pl'ffs, before they got further credit at pl'ffs' house for goods. He stated to me that the sole object of the mortgage and note was to secure the indebtedness which had accrued to the pl'ffs from Curran & Lawler, before the giving of the mortgage and note. The

note and mortgage were given by me as att'y in fact of Lawler, upon the express condition that it was to secure only the indebtedness which had accrued prior to that time; and when that would be paid, that the property would be unincumbered to me again.

The evidence touching the representation of Curran to Anne Curran objected by the counsel of the pl'ffs.

Cross-examined.

Neither of the pl'ffs were present at the time I speak of, when James Curran made the representations I speak of—the representations on which I was induced, as the attorney of Lawler, to give the note and mortgage, as I have related in my direct examination.

Re-direct examination.

The note and mortgage were given because the firm of Curran & Lawler owed the house of pl'ffs, and they wanted to secure the indebtedness before an application for further credit was given; I did not know the amount of the indebtedness of C. & L.; I had no idea that this would be used to secure future purchases, and executed the note and mortgage with great reluctance, and only upon the express representation that it would apply only to the then existing indebtedness of the firm of Curran & Lawler. Lawler was at this time absent from the Territory, and had been for a long time before and after the note and mortgage were executed; he had no knowledge of this transaction at the time. I never had a conversation with the pl'ffs, or either of them, referring to the note or mortgage or the indebtedness. I don't know either of the pl'ffs. I was opposed to giving the note or mortgage, and only did it on the expectation that it would be released shortly, as soon as the indebtedness existing was liquidated; I would not have executed the note or mortgage upon any other conditions.

ANNE CURRAN.

Subscribed and sworn to before me, this 5th May, 1855.

JOSEPH LEMAY,
Justice of the Peace.

Territory of Minnesota, District Court, 2d judicial district, county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling and Henry Stone,
against
WM. B. LAWLER and others.

To the above-named plaintiffs, and to Rice, Hollinshead & Becker, their attorneys:

Take notice, that William B. Lawler, the above-named defend-

ant, has applied to me, the undersigned, a justice of the peace, to take the depositions of James Curran and Anne Curran, witnesses on the part of the defendants, who are both about to leave and go out of this Territory, and whom it is alleged will not return in time for the trial of this cause, to use the same on the trial of said cause. And you are hereby notified to appear before me at the dwelling-house of David O. Oakes, in the city of St. Paul, in said county and Territory, on Saturday the 5th day of May instant, at three o'clock of the afternoon of that day, at which time and place I shall proceed to take the depositions of the said James and Anne Curran upon the application of the defendant William B. Lawler, and you can then and there attend and put such interrogatories to the said witnesses as you may think fit.

St. Paul, May 3d, 1855.

JOSEPH LEMAY,
Justice of the Peace.

I certify that the above and foregoing is a true duplicate copy of the original notice by me signed and issued.

JOSEPH LEMAY,
Justice of the Peace.

Endorsed: Service of copy of within on us this 3d day of May, '55, hereby admitted. Rice, Hollinshead & Becker, attorneys for plaintiffs.

Territory of Minnesota, District Court, 2d judicial district, county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling, and Henry Stone,
against
WILLIAM B. LAWLER and others.

It is hereby stipulated and mutually agreed by and between the parties in and to the above-entitled action, by their attorneys respectively, that for the mutual convenience of the parties and their counsel, John B. Brisbin, esq., may write the depositions and testimony of James Curran and Anne Curran, now here to be taken by and before Joseph Lemay, esq., a justice of the peace, he the said justice being present to hear and take the same, and the same being taken by and in the personal presence of the said Joseph Lemay, justice of the peace, and any and all objections to the same being written by the said John B. Brisbin is hereby waived; and it is stipulated that no objection shall be taken or used to his writing the same, or to the depositions being used and read on that account.

RICE, HOLLINSHEAD & BECKER,
Plff's Att'ys.
AMES & VAN ETTEN, *Def'ts' Att'ys.*

Dated St. Paul, May 5th, 1855.

Territory of Minnesota, District Court, 2d district, county of Ramsey.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling, and Henry Stone,
against
WILLIAM B. LAWLER and others.

COUNTY OF RAMSEY, *ss.*

M. E. Ames came personally before me, and being duly sworn, says that he is one of the attorneys of record for William B. Lawler, one of the defendants in the above-entitled action, who has answered the complaint and defends therein; and that James Curran and Anne Curran are material witnesses on the part of said defendants, whose testimony is wanted in the cause to prove the defence therein; and that the said James and Anne Curran are residents of the town of Prescott, in the State of Wisconsin, as deponent is informed by them and believes to be true; and that the said James Curran and Anne Curran are both about to leave and go out of the Territory of Minnesota, and will not return to said Territory in time to attend the trial of said cause or to be examined upon the trial thereof, as deponent is informed by them and believes to be true.

Therefore, deponent asks that a notice may be issued and given to the plaintiffs, or their attorneys, for the purpose of taking the depositions of said witnesses; and their depositions, taken according to the statute in such case provided, to be used upon the trial of said cause.

M. E. AMES.

Subscribed and sworn to before me the 3d day of May, 1855.

JOSEPH LEMAY,
Justice of the Peace.

TERRITORY OF MINNESOTA, *County of Ramsey, ss.*

I, Joseph Lemay, justice of the peace in and for said county, do hereby certify that the above and foregoing depositions of James Curran and Anne Curran were taken by and before me at the dwelling-house of David O. Oakes, in the city of Saint Paul, in said county of Ramsey, on the fifth (5th) day of May, A. D. 1855, at and between the hours of three (3) and eleven o'clock in the afternoon of that day, and that said depositions were taken upon the application and at the request of the defendant William B. Lawler, for the reason that the said witnesses James Curran and Anne Curran were both about to leave and go out of this Territory, and not to return in time for the trial of the cause in which the said depositions are taken; that said depositions were taken upon verbal interrogatories propounded to said witnesses, and the said depositions were reduced to writing by myself and by John B. Brisbin, esq., a disinterested person, in my presence and under my

direction, and were taken to be used in an action wherein Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling, and Henry Stone are plaintiffs, against William B. Lawler and others as defendants, now pending in the district court in and for the second judicial district and county of Ramsey, in the Territory of Minnesota; and that the notice of which the annexed is a true copy or duplicate was duly served upon Messrs. Rice, Hollinshead, & Becker, the attorneys of record for the plaintiffs in said action, on the 3d (3) day of May, 1855, and that William Hollinshead, esq., one of the attorneys and counsel of the plaintiffs, attended at the taking of said depositions, and cross-examined said witnesses, and that the said witnesses James Curran and Anne Curran were, before their examination by me, each severally sworn to testify to the truth, the whole truth, and nothing but the truth, relative to the said cause hereinbefore recited, in which they were so examined, and that the said depositions were each of them carefully read to the said deponents, (witnesses,) and then subscribed by them respectively in my presence.

JOSEPH LEMAY,
Justice of the Peace.

Dated at St. Paul, the 7th day of May, A. D. 1855.
My fees $9 00.

JOSEPH LEMAY,
Justice of the Peace.

Territory of Minnesota, District Court, 2d district, county of Ramsey.

I, George W. Prescott, clerk of the above entitled court, do hereby certify that the foregoing is a true copy of the depositions of James Curran and Anne Curran, in the cause therein entitled, and also of the exhibits and other papers thereto attached, with the endorsements on the same, as appears from the original roll in my office, certified by Joseph Lemay, justice of peace, and filed in said cause on the 12th day of May, A. D. 1855.

In testimony whereof I have hereunto set my hand and affixed [SEAL.] the seal of said court this 2d day of June, A. D. 1855.

GEO. W. PRESCOTT, *Clerk.*

(The foregoing endorsed:)

Depositions of James Curran and Anne Curran. Certified copy. Filed in sup. court, Jan. 12, 1856.

GEO. W. PRESCOTT, *Clerk.*

CLERK'S OFFICE, SUPREME COURT,
Territory of Minnesota.

I, George W. Prescott, clerk of said supreme court, certify the foregoing to be a true transcript of the original transcript from the district court therein mentioned of depositions on part of the def'ts therein mentioned, which original transcript is on file and

attached to the judgment roll in said supreme court in said cause of Claflin, Mellen & Co., respondents, against Wm. B. Lawler et al., appellants.

Witness my hand and the seal of said supreme court at St. [SEAL.] Paul, this 27th day of August, A. D. 1857.

GEO. W. PRESCOTT, *Clerk.*

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

In the name of the United States.

To John Livingston, esq., of the city of New York, and State of New York:

Whereas it has been represented to us that Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conklin and Henry Stone, are material witnesses in a certain cause now pending in the district court for the 2d judicial district, county of Ramsey, and Territory of Minnesota, between Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conklin and Henry Stone, plaintiffs, and William B. Lawler, and others, defendants, and that said witnesses reside in the city of New York, aforesaid:

Therefore know ye, that, in confidence of your prudence and fidelity, you are hereby appointed sole commissioner to examine the said witnesses, and are hereby authorized and required to cause them to come before you at such time and place as you may therefore designate and appoint, and to diligently examine said witnesses on the oath or affirmation of each of them by you first duly in that behalf administered, and faithfully to take their several depositions upon all interrogatories enclosed with or attached to these presents and none others; and the same when thus taken, together with this commission and the said interrogatories, to certify to the district court for the 2d judicial district, county of Ramsey, and Territory of Minnesota, aforesaid, with the least possible delay.

Witness the Honorable Moses Sherburne, judge of the district [SEAL.] court aforesaid, at Saint Paul, in said county of Ramsey, this 8th day of February, A. D. 1855.

GEORGE W. PRESCOTT, *Clerk.*

STATE OF NEW YORK,
City and County of New York, ss.

I, John Livingston, the commissioner named in the foregoing commission, do hereby certify, that the said commission was executed, and that the testimony of Horace B. Claflin, William H. Mellen, David H. Conkling, and Henry Stone, was taken by me, at my office, No. 157 Broadway, in the city of New York, on the 20th day of February, 1855, between the hours of 8 o'clock a. m. and 3 o'clock p. m., and was reduced to writing by myself; that said testimony was taken, by and pursuant to the authority and requirements of said commission, upon the interrogatories annexed

and herewith returned; that the said witnesses, before their examination, were sworn to testify the truth, the whole truth, and nothing but the truth, relative to the cause specified in said commission; and that the testimony of each of said witnesses was carefully read to him by me and then subscribed by him in my presence.

[SEAL.] In witness whereof, I have hereto set my hand and affixed my official seal, this 20th day of February, 1855.

JOHN LIVINGSTON,
Commissioner for Minnesota.

In the District Court in and for the 2d judicial district and county of Ramsey, in the Territory of Minnesota.

HORACE B. CLAFLIN, WILLIAM H. MELLEN, Nathaniel F. Miller, David H. Conkling, and Henry Stone,
against
WILLIAM B. LAWLER and others.

Interrogatories to be propounded to Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling, and Henry Stone, of the city of New York, witnesses on the part of the plaintiffs in the above entitled action, and to each of the said witnesses, respectively:

I. First interrogatory. Do you know the plaintiffs and the defendant, William B. Lawler? If yea, state where and how long you have known them, or either of them.

II. Second interrogatory. Have you ever known a firm entitled "Curran & Lawler?" If yea, state when and where, and of whom the firm was composed.

III. Third interrogatory. In what business were the plaintiffs engaged on the 1st day of October, 1852, and under what name and firm, and where was such business transacted?

IV. Fourth interrogatory. In what business was the defendant, Lawler, engaged on the 1st day of October, 1852, and under what name or firm did he transact such business, and where did he so transact such business?

V. Fifth interrogatory. From whom did the plaintiffs receive the note and mortgage described in the complaint in this action, by which of the plaintiffs was the same received, and when and where, and what was the consideration given therefor? State your knowledge fully and particularly.

VI. Sixth interrogatory. Have the plaintiffs ever sold any goods or merchandise to the defendant, Lawler, or to any firm of which he is or was a member? If yea, state when and where such sale or sales were made, by whom and to whom they were made, and what was the nature and description, and price of such goods and merchandise, fully and particularly.

VII. Seventh interrogatory. If you say that any goods and merchandise were sold by the plaintiffs, as inquired in the last preceding interrogatory, then state to whom or pursuant to whose direction, and how the same were delivered, and who agreed to pay for the same at the prices stated, and whether the same have been paid for, or whether there has been any payment for or on account of the same, and when such payment or payments were made, and where, and by whom, and to whom?

VIII. Eighth interrogatory. Was the defendant, William B. Lawler, indebted to the plaintiffs on the 1st day of October, 1852? If yea, state in what capacity or name he was so indebted, what for, and in what amount.

IX. Ninth interrogatory. Did the defendant, Lawler, or any firm of which he was a member, on or about the 1st day of October, 1852, request or solicit the plaintiffs to sell him or such firm goods or merchandise upon credit? If yea, state when, where, by whom, and of whom such request or solicitation was made, for whom such credit was asked or solicited, and for what purpose.

X. Tenth interrogatory. Did the defendant, Lawler, or any firm of which he was a member, or any member of such firm, on or about the 1st day of October, 1852, offer any inducements or security to the plaintiffs for any credit extended to him or them, or to be thereafter extended to him or them? If yea, state when, where, by whom, and to whom such offer was made, what was the nature and character thereof, what inducements or security was or were offered, and what for, and all the particulars of your knowledge thereof.

XI. Eleventh interrogatory. If you answer the last preceding interrogatory in the affirmative, state whether the plaintiffs ever extended to the defendant, Lawler, or to any firm of which he was a member, any credit pursuant to such request or offer, and to whom, and what for, and to what amount, such credit was extended, and all your knowledge thereof fully and particularly?

XII. Twelfth interrogatory. Did the defendant, Lawler, or any firm of which he was a member, give to the plaintiffs any note, mortgage, or other security, for such credit, (if any were so extended?) If yea, state when, where, by whom and to whom, and for what, such note, mortgage, or other security, was given, and particularly whether the same was or were given for credit that had been extended at the time when the said security was given, or whether the same was or were for credit to be thereafter extended to the said Lawler, or any firm of which he was a member? State the facts fully and particularly.

XIII. Thirteenth interrogatory. If you say that the defendant, Lawler, or any firm of which he was a member, did give a note, mortgage, or other security, as inquired in the last preceding interrogatory, then state particularly what credit had previously

to that time been extended to said Lawler, or said firm, by the plaintiffs, and what credit was thereafter so extended, and when the same expired, and what amount, if any, was paid thereupon, fully and particularly.

XIV. Fourteenth interrogatory. For what consideration, or under and pursuant to what understanding or agreement, was the note and mortgage described in the complaint in this action given to the plaintiffs? State fully and minutely all that you know in relation to the matter.

XV. Fifteenth interrogatory. Has the consideration for which the said note and mortgage were given ever been paid, wholly or in part, or has the understanding or agreement under or pursuant to which the same were given been complied with by the defendant, Lawler, or any other person, either wholly or in part? If yea, state the facts fully and minutely.

XVI. Sixteenth interrogatory. Have the note and mortgage described in the complaint in this action, or either of them, been paid or satisfied wholly or in part by the defendant Lawler, or any other person? If yea, state the facts fully and minutely.

XVII. Seventeenth interrogatory. Do you know of any other matter or thing advantageous to the plaintiffs in this action? If yea, state the same as fully and minutely as if thereto particularly interrogated.

RICE, HOLLINSHEAD & BECKER,
Attorneys for Plaintiffs.

St. Paul, January 23d, 1855.

It is hereby stipulated that all further notice of the application for commission herein be waived, and the filing of cross-interrogatories be waived; and that a commission issue forthwith to John Livingston, esq., of the city of New York, to take the testimony of Horace B. Claflin, William H. Mellen, Nathaniel F. Miller, David H. Conkling, and Henry Stone, residents of said city of New York; and that the interrogatories served herein accompany said commission, saving and barely reserving all legal objections to the competency and admissibility of the testimony to be taken on the trial or final hearing.

AMES VAN ETTEN,
Def'ts' Att'ys.

Feb. 7, 1855.

The foregoing interrogatories endorsed:

St. Paul, January 23, 1855.—Due service of the within is hereby admitted.

AMES & VAN ETTEN,
Def'ts' Att'ys.

William H. Mellen, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, deposes as follows:

First. In answer to the first interrogatory he says: I know the plaintiffs; I have never seen the defendant Lawler; I have seen Curran at 57 Broadway, about 11th August, 1852, and at other times.

Second. In answer to the second interrogatory he says: I have known Curran & Lawler since 11th August, 1852, as a firm, which is composed of William B. Lawler and James Curran; I know the firm as merchants, doing business at St. Paul, Minnesota.

Third. In answer to the third interrogatory he says: On the 1st Oct., 1852, plaintiffs were engaged in the dry-goods business at number 57 Broadway, New York, under the name of Claflin, Mellen & Co.

Fourth. In answer to the fourth interrogatory he says: The defendant Lawler was engaged in business as a merchant at Saint Paul, Minnesota, as a member of the firm of Curran & Lawler, in October, 1852.

Fifth. In answer to the fifth interrogatory he says: The note and mortgage were received from James Curran by me, on or about the 20th October, 1852, at number 57 Broadway, in the city of New York. About the 13th August, 1852, Mr. Curran had a conversation with me at No. 57 Broadway. He then remarked to me that he should from time to time have occasion to buy goods of our firm on credit to a larger amount than we should probably wish to sell, and he proposed, therefore, that his partner, William B. Lawler, would execute to the plaintiffs a mortgage on his real estate in Saint Paul, and that such mortgage might be held by the plaintiffs for any purchases he might make of our firm, and that his firm might subsequently owe our firm. I replied that on such security we would be willing to sell him a liberal amount. He then said he would have the mortgage executed, and bring it with him when he next came down to the city. This was all the conversation at this time, and Mr. Curran then went home. The next I saw of Mr. Curran was on or about the 20th of October, 1852, when he again called on me at our house, No. 57 Broadway, giving me the mortgage made in pursuance of the above agreement and understanding between us. The mortgage was executed by Mr. Curran's wife, as attorney in fact of William B. Lawler. It had upon it the proper certificate of having been recorded in the proper office, and also a certified copy of the power of attorney. We, plaintiffs, accepted this mortgage as security for purchases to be made, or any debts which the firm of Curran & Lawler might subsequently owe us. The understanding and agreement between us and Mr. Curran was, that this mortgage was to be held by us as a pledge or collateral security, and was not to be cancelled or delivered up until all purchases which Curran & Lawler might make, and which might become due at any time within the year, and before the mortgage became due and payable—that is, before the 1st day of Octo-

ber, 1853—should be fully paid. So long as anything should remain due on such purchases such indebtedness was to be considered and deemed as secured by the mortgage. The amount of this mortgage was four thousand dollars; it was dated October 1st, 1852, and was due in one year from that date. The note named in the mortgage was given by Mrs. Curran, as attorney in fact for Mr. Lawler. All sales that we subsequently made to Curran & Lawler was made in reliance of, and upon the strength of, this security.

Sixth. In answer to the sixth interrogatory he says: The plaintiffs have sold and delivered to the firm of Curran & Lawler, of which firm William B. Lawler was a member, several bills of goods at various times. Such sales were made in the city of New York, at the various times and to the several amounts as stated in the paper hereto annexed, and marked Exhibit A. The sales were all made by one of plaintiffs' salesmen, and were all made to James Curran personally, with the exception of a bill dated January 18th, 1853, amounting to $462 29, which bill was sold in pursuance of a written order received from the firm of Curran & Lawler. The nature, description, and price of such goods and merchandise is fully set forth in the several bills hereto annexed, marked Exhibit 1 to 11 inclusive.

Seventh. In answer to the 7th interrogatory he says: The merchandise was sold to Curran & Lawler as above stated, and the whole was sent pursuant to the directions of Mr. Curran, and by the ordinary means of transportation, with the exception of the bill of January 18, 1853, which bill was sent by express, as directed in the written order of Curran & Lawler. Mr. Curran agreed upon the price stated in the annexed exhibits, and agreed to pay for the merchandise as one of the firm. All the payments that have been made, and the time at which the same were made, are fully shown in the Exhibit A. The payments of 12th and 14th August, 1852, were made to the plaintiffs at New York in person by Mr. Curran. All the other payments were made at the office of Carter & Company, at Galena, Illinois, I believe, and by the defendants.

Eighth. In answer to the 8th interrogatory he says: Curran & Lawler, of which Wm. B. Lawler was a partner, was indebted to the plaintiffs on the first day of October, 1852, for goods sold and delivered to defendants, in the sum of $2,126 08.

Ninth. In answer to the 9th interrogatory he says: Curran & Lawler, about 20th Oct., '52, solicited me, as a member of the firm of Claflin, Mellen & Co., to sell their firm on credit; such request was made by James Curran, for the purpose of buying merchandise of us to be sold at St. Paul by defendants.

Tenth. In answer to the 10th interrogatory he says: This interrogatory is fully answered in reply to the fifth interrogatory preceding, and I refer to that answer.

Eleventh. In answer to the 11th interrogatory he says: The plaintiffs did, subsequently, on the strength of such security, sell to the defendants, at different times, merchandise amounting to $6,855 21. The several times and amount so sold them are set forth in Exhibit "A." All these subsequently sales were made on the strength of the mortgage security.

Twelfth. In answer to the 12th interrogatory he says: Curran & Lawler gave the mortgage of Mr. Lawler as stated in my answer to the fifth interrogatory, to which I refer, and in which answer the facts are fully stated.

Thirteenth. In answer to the 13th interrogatory he says: Previous to the execution and delivery of the note and mortgage referred to, the plaintiffs had sold to "Curran Lawler" $4,252 16, of which there had been paid $2,126 16, leaving then due a like sum, which has also been paid. Subsequent to October 1st, 1852, we sold to the defendants $6,855 21, on which has been paid $1,880 92, leaving due $4,974 29 and interest. The last credit expired and became due on the 25th August, 1853.

Fourteenth. In answer to the 14th interrogatory he says: The note and mortgage described in this action were given for the consideration and under the agreement and understanding stated fully in my answer to the fifth interrogatory, to which answer I refer.

On applying to us on the 14th April, 1853, for further credits, we were not willing to extend credits to Curran & Lawler, as they had not paid their previous notes when due. Mr. Curran then stated to us that we ought not to object to selling them, as the debts they owed us were fully secured to the amount of the $4,000 mentioned in the mortgage. He thereby admitted that the mortgage was security for any debt they might owe us, to the extent stated in the mortgage.

Fifteenth. In answer to the fifteenth interrogatory he says: The understanding and agreement under which the note and mortgage were given have not been complied with by the defendants, or any person for them. The mortgage was to secure any debts the defendants might owe us, and as they now owe us $4,974 29 and interest, the whole amount of the mortgage is now due and unpaid, in pursuance of the agreement with Curran, as before stated.

Sixteenth. In answer to the sixteenth interrogatory he says: No part of the note or mortgage has been paid or satisfied, wholly or in part, by the defendant, Lawler, or by any other person.

Seventeenth. In answer to the seventeenth interrogatory he says: I have never seen Mr. Lawler, nor has any member of our firm. The whole business was transacted with Mr. Curran.

In August, 1852, he, Curran, stated to us that they commenced with a cash capital of $10,000, furnished by Mr. Lawler; that his partner owned real estate in St. Paul that cost $10,000, and that

he had $10,000 more to be paid to him from California, and that the firm were worth full $30,000.

Nathaniel F. Miller, a member of the plaintiffs' house, is now in Europe. Mr. Conkling, another member, knows nothing about this matter, as he attends exclusively to purchases and sales for our house.

WM. H. MELLEN.

Sworn to and subscribed before me this 20th day of February, 1855.

JOHN LIVINGSTON, *Comm'r.*

Horace B. Claflin, of the city of New York, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says:

First. In answer to the 1st interrogatory he says: I am one of the plaintiffs; I know one of defendants, Wm. Curran, whom I saw in October, 1852, and since then in New York.

Second. In answer to the 2d interrogatory he says: I know the firm of Curran & Lawler; it is composed Wm. B. Lawler and James Curran.

Third. In answer to the 3d interrogatory he says: In Oct., 1852, we were in the dry goods business in New York, under the firm of Claflin, Mellen & Co.

Fourth. In answer to the 4th interrogatory he says: The def't, Lawler, was in business at Saint Paul, on 1st Oct., 1852, under the firm of Curran & Lawler.

Fifth. In answer to the 5th interrogatory he says: The note and mortgage were received from Curran by Mr. Mellen at New York, on or 20 Oct., 1852. I have no personal knowledge of the consideration, as the business was done by Mr. Mellen with Mr. Curran.

Sixth. In answer to the 6th interrogatory he says: In answer to this interrogatory, I refer to Mr. Mellen's answer to the same question, and to Exhibit A, and to Exhibits from 1 to 11, annexed.

Seventh. In answer to the 7th interrogatory he says: I refer to Mr. Mellen's answer to the 7th question, which is true, and which is my answer.

Eighth. In answer to the 8th interrogatory he says: The firm of Curran & Lawler were indebted to the plaintiffs on 1st Oct., 1852, in the sum of $2,126 08, for goods sold and delivered.

Ninth. In answer to the 9th interrogatory he says: He did solicit credit of us, as stated in Mr. Mellen's answer to this question, to which I refer.

Tenth. In answer to the 10th interrogatory he says: About 20th Oct., 1852, I saw Mr. Curran, and he said that the mortgage he had given our firm covered any indebtedness he might owe us, to

the amount of $4,000, and he thought we should sell them beyond that amount.

Eleventh. In answer to the 11th interrogatory he says: The plaintiffs did, subsequently, sell the defendants' goods to a large amount, but I do not know how much.

Twelfth. In answer to the 12th interrogatory he says: Mr. Curran gave the note and mortgage for Curran & Lawler as security for any debts they might owe us, as stated in Mr. Mellen's answer to the 5th interrogatory, to which I refer.

Thirteenth. In answer to the 13th interrogatory he says: I am not able to answer this question, as Mr. Mellen attended to the matter almost wholly.

Fourteenth. In answer to the 14th interrogatory he says: I have no other knowledge of this matter than what I stated in reply to the 12th interrogatory, to which I refer.

Fifteenth. In answer to the fifteenth interrogatory he says: The consideration has not been paid. The defendants now owe us over $4,000, which, by the agreement, we deem secured by the mortgage.

Sixteenth. In answer to the sixteenth interrogatory he says: Neither the note nor mortgage, nor any part thereof, has been paid.

Seventeenth. In answer to the 17th interrogatory he says: Mr. Curran again saw me in April, 1853, in New York. He again alluded to the mortgage, and said that it covered $4,000, and that the plaintiffs ought to give him further credit. He desired to obtain further credit to the amount of some $4,000 additional. I was opposed to selling him one dollar above the amount of the mortgage. It was always understood and agreed, and the idea held out by Mr. Curran in his conversations with me, that so long as any amount remained due to the plaintiffs, it was to be considered as secured by the mortgage. Mr. Curran expressly so stated to me, both in the month of Oct., 1852, and April, 1853, and all sales subsequent to the mortgage being given, were made on the strength of this agreement.

HORACE B. CLAFLIN.

Taken and reduced to writing by me, and by the said witness; subscribed and sworn to before me this 20th day of October, 1855.

JOHN LIVINGSTON,
Commissioner for Minnesota.

Henry Stone, of the city of New York, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the foregoing interrogatories, deposes as follows:

First. In answer to the first interrogatory he says: I am one of the plaintiffs; I know one of the defendants, James Curran, whom I saw in Oct., 1852, in the city of New York; and I have seen him since that time in Saint Paul, in July, 1853.

Second. In answer to the 2d interrogatory he says: The firm of

Curran & Lawler is composed of James Curran and William B. Lawler; I never saw Lawler.

Third. In answer to the 3d interrogatory he says: In Oct., 1852, we were in the dry goods business in the city of New York, under the firm of Claflin, Mellen & Co.

Fourth. In answer to the 4th interrogatory he says: On 1st October, 1852, def't, Lawler, was in business at Saint Paul, Minnesota, as one of the firm of Curran & Lawler, as I was informed by Mr. Curran.

Fifth. In answer to the 5th interrogatory he says: The note and mortgage were received from Mr. Curran by Mr. Mellen; I don't know the time.

Sixth. In answer to the 6th interrogatory he says: Mr. Mellen has answered this question fully. I have no personal knowledge of the sales, except that I have seen Mr. Curran buying goods at different times of our salesman.

Seventh. In answer to the seventh interrogatory he says: I have no personal knowledge sufficient to answer this question.

Eighth. In answer to the 8th interrogatory he says: I answer the same as to the 7th interrogatory.

Ninth. In answer to the ninth interrogatory he says: I do not know.

Tenth. In answer to the 10th interrogatory he says: About 21st October, 1852, I saw Mr. Curran in our store; he then stated he was going to give our house a mortgage and other security, as security for purchasers.

Eleventh. In answer to the 11th interrogatory he says: I cannot answer this fully, as I have not the necessary information.

Twelfth. In answer to the 12th interrogatory he says: Curran gave the note and mortgage as collateral security for any debts Curran & Lawler might owe us.

Thirteenth. In answer to the 13th interrogatory he says: I am not able to answer this question, as Mr. Mellen attended to the matter almost exclusively.

Fourteenth. In answer to the 14th interrogatory he says: I cannot answer this question.

Fifteenth. In answer to the 15th interrogatory he says: The defendants now owe the plaintiffs over $5,000, of which $4,000 is secured by the mortgage.

Sixteenth. Neither the note nor mortgage, nor any part thereof, has been paid.

Seventeenth. In answer to 17th interrogatory he says: In July, 1853, I saw Mr. Curran at Saint Paul, and he then stated that the mortgage secured us to the amount of $4,000, and that we need have no fears of our claim. The understanding and agreement on the part of Curran was that this mortgage was to be held as

collateral security for anything the firm of Curran & Lawler might owe us, and we sold them on the strength of that agreement.

HENRY STONE.

Examination taken and reduced to writing by me, and by the said witness subscribed and sworn to, before me, this 20th day of February, 1855.

JOHN LIVINGSTON, *Comm'r.*

David H. Conkling, of Brooklyn, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, deposes as follows:

First. In answer to the 1st interrogatory he says: I have known the plaintiffs for several years in the city of New York. Do not know the defendants personally.

Second. In answer to the 2d interrogatory he says: I know Curran & Lawler as a firm. I do not know of whom it is composed.

Third. In answer to the third interrogatory he says: The plaintiffs on the 1st October, 1852, were dry-goods merchants, at 57 Broadway, in New York city, under the firm of Claflin, Mellen & Co.

Fourth. In answer to the 4th interrogatory he says: I do not know.

Fifth. In answer to the 5th interrogatory he says: I do not know, as this part of our business is transacted by other members of the firm.

Sixth. In answer to the sixth interrogatory he says: The plaintiffs have sold goods to a firm of which Lawler was a member. To the rest of this question I cannot answer.

Seventh. In answer to the seventh interrogatory he says: I do not know.

Eighth. In answer to the 8th interrogatory he says: Defendant Lawler was indebted to pl'ffs, but I do not know in how much.

Ninth. In answer to the ninth interrogatory he says: I have no knowledge sufficient to answer this question.

Tenth. In answer to the 10th interrogatory he says: I do not know; I have no knowledge on the subject.

Eleventh. In answer to the 11th interrogatory he says: I do not know.

Twelfth. In answer to the 12th interrogatory he says: I do not know. All this matter is attended to by other members of the firm.

Thirteenth. In answer to the 13th interrogatory he says: I cannot answer for want of information.

Fourteenth. In answer to the 14th interrogatory he says: I do not know.

Fifteenth. In answer to the fifteenth interrogatory he says: I have no knowledge of any payments.

Sixteenth. In answer to the sixteenth interrogatory he says: I do not know that either the note or mortgage have been paid.

Seventeenth. In answer to the 17th interrogatory he says: I know nothing further.

D. H. CONKLING.

Examination taken and reduced to writing by me, and by the said witness subscribed and sworn to, before me, this 20th day of February, 1855.

JOHN LIVINGSTON, *Comm'r.*

Messrs. Curran & Lawler to Claflin, Mellen & Co.

1852, Aug. 11.	To mdse		$1,802 16
12.	Do.		1,960 21
13.	Do.		475 54
16.	Do.		14 25
Oct. 21.	Do.		4,791 58
23.	Do.		89 34
1853, Jany. 18.	Do.		462 29
Mar. 30.	Do.		231 58
Apr. 14.	Do.		1,014 04
15.	Do.		142 38
16.	Do.		124 00
			11,107 37

For which we have rec'd, as follows:

1852, Aug. 12.	Cash	$1,000 00	
14.	Do	300 00	
Sep. 16.	Do	826 08	
Dec. 15.	Do	2,126 08	
1853, Jany. 3.	Notes due Dec. 3, cash rec'd by us	880 92	
Feb. 28.	Cash	1,000 00	
			$6,133 08
			4,974 29
Interest			93 73
			5,068 02

Exhibit "A."

WM. H. MELLEN,
HORACE B. CLAFLIN.

Certified by—

JOHN LIVINGSTON, *Comm'r.*

NEW YORK, *August* 11, 1852.

(Continued.)

Bought of CLAFLIN, MELLEN & Co.

320	1 dot. Swiss	10	30	3
360	1 "	10	32½	3 25
84090	1 "	10	37½	3 75
63576	1 "	10	42½	4 25
75257	1 "	10	60	6
29	1 India book	12	10½	1 26
35	1 "	12	11½	1 38
39	1 "	12	15	1 80
43	1 "	12	18	2 16
48	1 "	12	21	2 52
58	1 "	12	28	3 36
62	1 "	12	31	3 72
66	1 "	12	35	4 20
70	1 "	12	40	4 80
72	1 "	12	45	5 40
46	1 " mull	12	20	2 40
54	1 " "	12	23	2 76
56	1 " "	12	26	3 12
6330	6 embr'd draperies	72	16½	11 88
8703	6 "	72	22½	16 20
7752	6 "	72	26½	19 08
8863	6 "	72	29	20 88
8968	6 "	72	31	22 32
8524	6 "	72	37½	27
96	2 "	24	47½	11 40
8511	5 "	60	50	30
69	4 stripe book	48	8	3 84
70	6 "	72	9	6 48
400	2 "	24	12½	3
102	1 "	12	14	1 68
453	1 doz. D. D. damk. napkins			2
462	1 " S. " " "			2 25
403	1 "			2 50
405	1 "			2 75
2084	2 doyles		65	1 30
2077	2 "	1		2
2016	1 "			1 50
270	1 "			1 63
2078	1 "			1 80
2035	1 "			2 63
2080	1 "			3

Account—Continued.

	2 brown		1 30
262	1 dam. T. cover		85
192	1 "		1 25
193	1 "		1 35
234	1 "		1 50
194	1 "		1 50
204	1 "		1 55
1426	1 "		1 75
205	1 "		1 65
211	1 "		1 85
212	2 "	2	4
213	1 "		2 25
239	1 snow-drop		2 25
214	3 "	2 38	7 14
608	1 Irish linen	26 25	6 50
1061	1 "	26 30	7 80
1041	1 "	26[2] 32[2]	8 61
741	1 "	22[2] 45	7 86
861	1 "	12 41	4 92
122	1 "	25 65	16 25
475	1 linen lawn	13 30	3 90
477	1 "	13 35	4 55
5	1 white Holland	25[3] 20	5 15
38	1 bro. "	27 13[2]	3 64
28	1 " "	25[2] 21	5 35
87	1 bl'k "	29[3] 16	4 76
906	1 B. E. diaper	13 26[2]	3 45
909	1 "	14 30	4 20
231	1 "	16 20	3 20
322	1 Bl'd T	21 42[2]	8 92
362	1 "	22 52[2]	11 55

NEW YORK, *Aug.* 11, 1852.

Mess. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

	6 doz. towels	75	4 50
	1 bro. T. damask	30[2] 37[2]	11 44
	1 "	30 37[2]	11 25
	1 "	38 35	13 30
19	Am. diaper	1 25	23 75
10		1 55	15 50
	6 Sco	1 05	6 30

Account—Continued.

5		2		10
3	P. case long clo	110[1]	9	9 92
3	jas. 45 m	110	14	15 40
3	Utica	102[3]	11[2]	11 82
1	$\frac{8}{4}$ Allendale	31[2]	22[2]	7 08
1	$\frac{9}{4}$	42[3]	25	10 69
1	$\frac{10}{4}$	32[2]	27[2]	8 94
3	Ham	108[2]	10[1]	11 12
1	Atlantic	43[1]	12[2]	5 41
6	Benn. H	194[2]	5[2]	10 70
5	G. F. C. S	167[1]	6[2]	10 87
2	Booth 6	65[2]	7	4 58
3	G. F. C. C	104[3]	6	6 29
6	G. F. C. D	194	4[2]	8 73
2	Sussex	63[3]	7	4 46
2		60[3]	6[3]	4 10
2	Dwight a	73[2]	8	5 88
2	Lonsdale	873	10[2]	9 23
2	Atlantic	66[1]	8	5 30
1	N. Y	31	14	4 34
2	Wamsutta	87	12[2]	10 88
10	Dwight D	343[3]	10[2]	36 09
6	" E	205	10	20 50
3	Stark bl'd drill	131[1]	7[3]	10 16
1	bl'd drill	31	9	2 70
3	" jean	111[1]	8[2]	9 45
9	crash	225	7[2]	16 88
10	"	250	10	25
1	white flannel	30[2]	22[2]	6 86
1		30	16[2]	4 95
1		27	42[2]	11 48
1		25	42[2]	10 63
11	crash	275	9[2]	26 13
5	col. cambric	196[1]	5	9 81
9		286	6	17 16
9		317[3]	5	15 89
1	" jean	37	9[1]	3 42
2	gld. "	71	8	5 68
2	Thorndike denims	84[3]	73	6 56
5	Colum	177	7[1]	12 83
3	Mass. blue drill	127[1]	9[1]	11 77
5	up-stripe	224[3]	6[3]	15 17
5	Portland "	182	8[1]	15 02
1	ma. tick	49	6[2]	3 19

Account—Continued.

	1 W. B.	47 7		3 29
	1 H. A.	50 6^1		3 13
	1 ¼ A. C. A.	36^2 22^2		8 21
	1 "	40^3 13^2		5 50
	3 Ham	139^1 9^2		13 23
	1 furniture check	54 9^2		5 13
	2	115^2 10^2		12 13
	1 apron "	59^2 11		6 55
	2 " "	92^3 12^2		11 59
	5 " "	298^3 10^2		31 37
	5 G. F. C. 2 bro. sheeting	179^1 10^2		18 82
	3 La. bro. jeans	92^1 8^3		8 07
	5 R. "	203^3 7^2		15 28
	1 W. wigan	36 6^3		2 43
	1 bl'k	33^2 6^3		2 26
	2 K'ty jean	69 18^3		12 94
	1 "	35^1 32^2		11 45
	1 "	34^3 31		10 78
	1 valley jean	36^2 25		9 13
	1 "	52 16^2		8 58
	1 pla. lining	27 32^2		8 78
	1 bld. lining	26^1 25		6 56
	1 aca. tick	40 14^2		5 80
	1 A. "	39^3 12^2		4 97
	3 col'd cambric	120^1 5^2		6 61
2211	1 bale G. F. C. S. bro. sheet'g	1344 6		62 64
445	4 doz. lin. h'kfs	1 20		4 80
6	1 " "	1 50		1 50
26	1 " "			2
27	1 " "			2 25
772	1 " "			2 50
773	1 " "			2 75
1121	1 " "			2 75
1225	1 " "			3
1311	1 " "			3 25
1312	1 " "			3 38
1313	1 " "			4
5	1 " " f'cy gents			3 25
7	¼ " "			1 06
8	1 " "			4 25
9	1 " "			5 50
280	2 " bl'k cravats	8 50		17
2806	2 " "	9		18
2485	2 " "	10 50		21

Account—Continued.

	1 doz. lin. bl'k cravats		14
	2 Pongee h'kfs	2	4
	5 "	2 50	12 50
	7 "	3 50	24 50
	5 "	4 50	22 50
	1 Wiegl.		62
	1 d'z "		1 13
3	1 "		2
6	2 "	1 62½	3 25
	1 blue berege	20 40	8
	1 green "	22½ 36	8 10
	1 " "	20 40	8
	1 white cambric	12 9½	1 14
371	1 "	16 11½	1 84
373	1 "	16 12½	2
375	1 "	16 14	2 24
377	1 "	16 14½	2 32
379	1 "	16 15½	2 48
P	1 "	16 18	2 88
2	1 "	16 20	3 20
411	1 "	12 22½	2 70
S	1 "	16 25	4
W	1 "	16 30	4 80
419	1 "	12 31	3 72
425	1 "	12 40	4 80
26	1 "	12 18	2 16
9	1 check	16 15	2 40
10	1 "	16 15½	2 48
11	1 "	16 18½	2 96
30	1 stripe	16 20	3 20
31	2 J	32 25	8
43	3 jaconet	60 9½	5 70
40	2	40 20	8
45	2	40 22½	9
60	2	40 25	10
65	2	40 30	12
69	1	20 36	7 20
75	1	20 45	9
77	1 Swiss	20 50	10
6	1	16 15	2 40
3	1	16 20	3 20
5	1	16 26	4 16
6	1	16 30	4 80
7	1	16 35	5 60

Account—Continued.

8	1	16 40	6 40
77	2 Swiss check.....	32 14²	4 64
67	2	32 15	4 80
78	2	32 17²	5 60
79	1	16 19	3 04
69	1	16 19	3 04
80	1	16 21	3 36
71	1	16 23²	3 76
63	1	16 26²	4 24
7	1	12 29	3 48
73	1	16 29	4 64
90	1 " stripe.....	16 20²	3 20
57	1	16 27	4 40
98	1	16 39	6 24
10	1 dot.....	10 20	2
	1 bld. table damask	183 70	13 12
	1	22¹ 110	24 47
	6 $\frac{8}{10}$ col'd worsted covers.....	2 25	13 50
	6 $\frac{6}{4}$ " cot. covers	45	2 70
	6 $\frac{7}{4}$ " "	65	3 90
	12 $\frac{8}{4}$.....	85	10 20
	6 bro. linen	60	3 60
	6	75	4 50
	6 $\frac{8}{10}$.....	1	6
	3 all wool.	3	9
	3 doz. bro. linen towels.....	1 38	2 76
	1 bld. huck.....	54¹ 12²	6 78
	1 crash.....	58² 10²	6 14
	1	45² 14	6 37
	1 G. F. C. S. bro. S. to fill.....	33¹ 6	2
	2 stock bro. " live.....	81³ 7¹	5 92
	3 cases and 16 $\frac{1}{2}$ straps.....	.....	5 75
			$1,802 16

Aug. 11, 1852. 1,802 16.
No. 1.

H. B. CLAFLIN.
WM. H. MELLEN.

JOHN LIVINGSTON,
Comm'r.

NEW YORK, *August* 12, 1852.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

	1 w. silk, 90	90	105	94 50
	1 "	75[1]	92[2]	69 61
	1 "	44	82[2]	36 61
37	4 poplin	150[2]	30	45 15
38	2 "	77	26	20 02
36	1 "	24[2]	25	6 13
	4 lawns	130	11[2]	14 95
	1 de laine	36[2]	26[2]	9 67
32	1 "	36	11[2]	4 14
32	3 "	111[3]	11[2]	12 86
34	5 "	168	15	25 20
6	2 "	74[2]	16[2]	12 29
	3 "	67[3]	18[2]	12 53
	1 "	32[3]	12[2]	4 06
1	2 "	68	13[2]	9 18
7	3 "	100[3]	12[2]	12 59
12	2 "	60[1]	14[2]	8 74
31	2 "	70[3]	26[2]	18 75
102	2 bl'k merino	70[2]	37[2]	26 44
24	3 rustic plaid	105[3]	15	15 85
	5 lin. gingham	208[1]	11	22 91
100	3 "	100[1]	10[2]	10 53
26	6 "	242	21[2]	52 03
	1 "	40	13[2]	5 40
39	3 "	121	14[2]	17 54
	1 T. red print	25[2]	20	5 10
546	1 "	29	15	4 35
581	1 "	29 3/8	18[2]	5 44
36	3 "	89[1]	20	17 85
37	2 "	60[2]	21	12 71
38	3 "	88	24	21 12
51	8 "	278	8	22 24
17	3 "	93[2]	5[2]	5 15
33	1 "	34[1]	7[2]	2 57
41	1 "	38[3]	5[2]	2 12
56	1 "	36	6[2]	2 34
26	2 "	82	6[2]	5 33
	1 "	26[1]	5[2]	1 44
587	3 "	88[1]	9[2]	8 38
93	6 "	200[1]	9[2]	19 02
94	1 "	32[2]	9	2 93
5	2 "	69[3]	8	5 58

Account—Continued.

597	7 T. red print	238[2] 8	19 08
46	14 "	482[1] 9	43 40
47	16 "	546[3] 9	49 21
580	5 "	170[3] 7[2]	12 80
28	6 "	236[1] 6[2]	15 36
439	1 fur print	37[3] 8[2]	3 21
433	1 "	33 7[2]	2 48
499	2 "	73[3] 8[2]	6 26
603	2 "	73 6	4 38
436	1 "	36[1] 7[2]	2 72
59	1 "	33[3] 6	2 03
572	2 "	83[1] 5	4 16
57	1 "	42 6	2 52
58	1 "	42 6	2 52
66	1 "	39[3] 6	2 38
436	1 "	37[2] 7[2]	2 81
15	1 "	28[2] 10[2]	2 99
16	1 "	28[1] 14	3 96
24	1 "	43[2] 11[2]	5
450	1 "	25 10[2]	2 63
	1 wool Cash. shawl		4
	1 palf. leaf		3 25
	2 green baize	1 75	3 50
	1 fig'd silk		5
	¼ lb. twist	9 00	2 25
	1 " heavy silk		5 75
40	6 " marshalls	95	5 82
50	6 " "	1 16	6 96
	1 doz. kid gloves		7 50
	5 " Bajou's "	8 50	42 50
	3 doz. gent's kid gloves	10 50	31 50
	1 vurcuits		6
	1 silk serge	20 70	14
	1 B. vesting	5 200	10
	1 W. satin "	10 150	15
	1 " "	5 325	16 25
	1 " "	10 200	20
	1 " "	5 312[2]	15 63
	2 fig. silk "	10[2] 137[2]	14 44
	1 fig. silk vesting	5[2] 112[2]	6 19
	1 " "	4[3] 137[2]	6 54
	1 buff Mars. "	8 1	8
	1 " "	5 125	6 25
	1 " "	5 87[2]	4 38

	1 fig. Mars. vesting	5 87²	4 83
	1 white "	10 62²	6 25
	1 " "	10 125	12 50
	1 b. silk velvet	5 137²	6 88
	1 " "	5 250	12 50
	1 " "	9⅛ 275	27 15
	1 Tabit "	41² 31¹	12 96
54968	1 blk. cloth	26⅘ 350	92 40
95576²	1 blue "	10 375	37 50
13041¹	1 blk. doeskin	26 175	45 50
40053	1 "	19² 100	19 50
3550	1 "	20³ 137²	28 53
	1 worsted serge	29 42²	12 33
66	1 blue satinet	23 60	13 80
2003	1 grey mix. "	26¹ 47²	12 47
482	1 " "	25 37²	9 38
5749	1 " "	27² 60	16 50
2211	1 blk. "	25³ 75	19 31
6940	1 mix. tweed	26¹ 42²	11 15
60	1 f'cy striped	39² 42²	16 79
59782	1 " cass'e	22¹ 55	12 24
44	1 " "	30 67²	20 25
	2 fancy doeskin	60³ 87²	53 15
	2 " cass'e	44 65	28 60
4	1 linen duck	35 17	5 95
	20 doz. colored spools	10	2
	50 " "	20	10
	1 bro. lurck	31 14	4 34
	1 " "	32 11²	3 68
218	1 " "	28¹ 20	5 65
579,80	2 " "	52 18	9 36
	1 Silesia	34¹ 8²	2 91
	2 paper cambric	40 9²	3 80
	1 "	20 9²	1 90
	1 "	20 8²	1 70
	2 11-4 lan. quilts	1 67²	3 35
	2 12-4 "	2	4
	2 13-4 "	2 12²	4 25
	2 10-4 "	1 55	3 10
	1 Marseilles "		2 25
	1 Hamilton bro	32 9²	3 04
	1 " bed	32 10	3 20
	3 crape scarfs	3	9
81	1 " shawl	4 50	4 50

Account—Continued.

84	1 crape shawl		6 50
a 523	1 plain "		10
392	1 embrd. "		15
60	1 " "		13 50
	5 woolen long shawls	5 50	27 50
	3 " " "	5	15
	5 dam. crape shawls	3	15
6	1 Sussex "		17
	2 blk. Thibet shawls	3 75	7 50
	1 silk f'cy "		2 25
	1 embrd. "		3 75
	1 sct. "		3 75
	1 crimson "		2 75
	1 drat. "		2 75
	2 broche scarf "	3 50	7
	6 Fch. Thibet "	2	12
	2 blk. lace "	3	6
	1 " " "		5
	4 cases and strapping		6
			$1,960 21

Aug. 12, '52. $1,960 21.
No. 2.

H. B. CLAFLIN,
WM. H. MELLEN.
JOHN LIVINGSTON,
Comm'r.

NEW YORK, *Aug. 13th*, 1852.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

	½ doz. L. W. shirts	12 00	6 00
	½ " " "	11 00	5 50
	½ " mixed "	14 00	7 00
	½ " drawers	14 00	7 00
	½ " M. S. "	7 00	3 50
	½ " L. W. white	12 00	6 00
	½ " " "	11 00	5 50
Of. 38	½ " bro. cott. shirts	9 00	4 50
59	½ " " " "	8 50	4 25
Of. 6	½ " " " "	10 00	5 00

Account—Continued.

7925	½	doz. white	10 50	5 25
6	½	" pink	5 50	2 75
	½	" striped	5 50	2 75
	3	" W. Ger. hose	5 50	2 75
	3	" striped "	1 12²	3 38
	4	" clouded "	1 25	5 00
	3	" grey	1 12²	3 38
	½	" hoods	5 25	2 62
567	½	" "	9 00	4 50
565	½	" "	9 00	4 50
40	2	men's suspenders	1 50	3 00
338	2	"	2 25	4 50
903	1	" Fch		4 00
699	1	" "		6 00
5000	1	doz. col'd woolen gloves		2 13
168	1	" lisle "		2 62
97	1	" silk "		11 00
82	1 6/12	" " "		13 13
97	1	India ladies' "		11 00
33	1	col'd " "		3 50
	1	ladies' col'd "		5 25
31	1	" " "		3 00
52	1	" " "		4 00
68	½	men's fur "	13 00	6 50
377	1	" " "		9 75
314	1	" " "		5 00
142	1	drab beaver "		6 50
5000	1	men's woolen "		2 75
P	1	" col'd cloth "		8 00
	1	" " "		6 00
20	1	Berlin lined " "		4 25
	1	dog-skin " "		3 25
353	1	drab buck		9 00
	1	" "		12 00
7	½	W. kid gloves	8 50	4 25
520	½	silk hose	13 25	6 63
528	½	bl'k "	12 00	6 00
530	½	" "	15 75	7 87
77	2	white cott. hose	1 10	2 20
265	1	" "		1 38
241	1	" "		1 70
125	1	" "		2 12
160	1	" "		2 88
232	1	" "		3 25

Account—Continued.

439	1 doz.	blk. cott. hose		3 50
	1	bro. "		3 50
17	1	plain "		1 20
91	1	" "		1 35
282	1	" "		1 70
24	1	slate "		1 25
191	1	" "		1 45
264	1	" "		1 75
471	1	" "		2 00
351	1	" "		2 38
9014	1	mix. "		1 20
186	1	" "		1 75
120	1	" "		2 00
378	6	" "		12 00
1	1	blk. "		1 75
601	1	blk. cot. "		2 12
26	3	wt., blk., and slate woolens	3 25	9 75
26	2	blk. and slate	4 50	9 00
8	1	white Australian		7 00
5	1	" cott. ½		95
226	1	" "		2 00
95	1	bro. "		1 25
105	1	" "		1 38
569	1	" "		1 50
28	1	" "		1 70
51	1	" "		2 56
379	1	mix. "		1 31
96	2	" "	1 50	3 00
380	2	" "	1 50	3 00
579	1	" "		1 70
104	1	" "		1 88
	5	" L. W., ½	2 37 2	11 87
	5	" ribb'd	2 50	12 50
	5	" "	2 87 2	14 38
60	2	" merino ½ hose	2 62 2	5 25
115	3	" boys' hose	1 70	5 10
300	4	fcy. cash'e "	3 50	14 00
532	4	wh. merino "	1 50	6 00
166	3	" "	2 25	6 75
53	1	fillet gloves		8 50
18	1	" "		3 00
				455 14
	2 pkg. trunks, $3 50; strapped, 25		3 75	

Account—Continued.

	Insurance N. York to St. Paul—4,640, *a* 1½ p. c.....	69 60	73 35
			528 49
	Ded. 2½ p. c., 21, 23.....	.....	52 95
			$475 54

Aug. 13, '52. $475 54.
No. 3.

H. B. CLAFLIN,
WM. H. MELLEN.
JOHN LIVINGSTON,
Comm'r.

NEW YORK, *Aug.* 16, 1852.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

30 doz. thread, 47½..... $14 25

Aug. 13, '52. $14 25.
No. 4.

WM. H. MELLEN.
JOHN LIVINGSTON,
Comm'r.

NEW YORK, *Oct.* 21, 1852.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

	1 case long cloth.....8848	1043	7[2]	78 23
	1 " G. F. C. q.....74	1034	11[2]	118 91
	1 " " " " C.....2612	1021	6[1]	63 81
	1 " 36 in. ——.....854	1090	8[1]	89 93
	1 " N. England denims 486	837	8	66 96
190	1 " S. Falls bro. flannel madens.....	618	9[1]	57 16
	1 bale W. B. ".....453	1030[2]	8[2]	82 44
	1 " C. tick.....1901	57[1]	10[2]	59 95
	1 " Pem. ".....558	460	14[2]	66 71
	1 " Attan. brown sheeting.....808	791	7[2]	59 32

Account—Continued.

	2 bales laines, 2194.....807			
	2196.....805	1612	7	112 84
59	1 " Stark A.....	820[1]	7	57 42
L. M.				
Co., 4	31 " Fon'd sct. flannel....2043	633	24	151 92
1243	1 " Roy " ".....	515	32[2]	167 45
321	5 doz. linen C. hdkfs.....		200	10 00
320	5 " " "		162[2]	8 13
318	5 " "		150	9 00
319	5 " "		162[2]	8 13
328	5 " "		375	18 75
326	5 " "		300	15 00
340	2 " "		425	8 50
341	2 " "		500	10 00
346	2 " "		700	14 00
772	1 linen C. hdkfs.....	.....		2 50
334	1 " "	.....		2 50
330	2 " "		400	8 00
339	2 " "		400	8 00
331	2 " "		475	9 50
332	2 " "		225	4 50
				1369 55
336	2 doz. linen C. hdkfs.....		300	6 00
335	2 " " "		350	6 00
	4 col'd bnd. "		350	14 00
219	2 " " "		400	8 00
221	$1\frac{9}{12}$ " " "		500	8 75
1883	1 lin. camb. "	.....		6 00
68	2 blk. cravats.....		875	17 50
	$1\frac{6}{12}$ 32 in. "		1150	17 25
	1 pongee hdkfs.....	.....		1 00
	1 " "		200	2 00
	2 " "		450	9 00
	3		350	10 50
1104	2 doz. Dam. napkins.....		475	9 50
393	3 " " S. N.....		375	11 25
412	2 " " Dam.....		275	5 50
1102	3 " "		225	6 75
423	3 " "		200	6 00
1101	3 " "		175	5 25
2078[2]	3 doylies		200	6 00
2078	3 "		175	5 25
2033	4 " S. N.....		150	4 50

Account—Continued.

33	3 doz. doylies, Dam	137[2]	4 13
2076	3 doylies	90	2 70
2	3 "	75	2 25
	1 huck. towels		4 00
21	1 bro. holland	25[3] 12[2]	3 21
22	1 " "	26 15	3 90
24	1	26 17[2]	4 55
5960	1 B E diaper	15 30	4 50
972	2 " "	31 32[2]	10 08
1535	2 " "	31[2] 35	11 03
233	1 " "	16 25	4 00
232	1 " "	15 22[2]	3 38
172	1 " "	14 20	2 80
168	1 " "	14 18[3]	2 63
1271	6 $\frac{8}{4}$ dam. cloths	300	18 00
1270	6 " "	250	15 00
	12 $\frac{8}{4}$ col'd	85	10 20
	1 Pongee H. silk		4 00
	Forward		$1645 91

NEW YORK, *October* 21, 1852.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

Duplicate bill.

	Continued		2,726 75
2	sct. wool flannel	48[3] 25	12 19
2	" "	51 23[2]	11 99
2	" "	51[2] 20	10 30
2	white twld. "	102[3] 32[2]	33 39
2	Domst. "	67[1] 18[3]	12 61
2	" "	64 20	12 80
1 $\frac{9}{4}$	wool	25[1] 80	20 20
1 $\frac{5}{4}$	"	25 45	11 25
2 $\frac{4}{4}$	"	50[3] 58	29 43
3	" "	77 36	27 99
2	"	51[3] 30	15 53
2	"	55 30	16 50
2	"	53 28	14 84
3	"	75[2] 25	18 88
2	"	50[1] 15	7 54

Account—Continued.

	2 yellow ditto	50^{3}	32^{2}	16 49
	6 opera "	160^{2}	45	72 23
	"	00	00	0 00
	2 Salisbury	60^{3}	25	15 19
	4 "	94^{1}	22^{2}	21 21
	3 Oms. b. bld. cot	93^{2}	12^{2}	11 69
	3 C. M. & Co.	99^{2}	10	9 95
	2 col'd cot	58	10^{2}	6 09
	3 R. R. Denims	118^{2}	12	14 22
	1 check	58	11^{2}	6 67
1200	1 "	44^{3}	13	5 82
1016	3 "	162	9	14 58
	3 ex. "	175^{2}	11	20 18
	5 Portland stripes	183	8^{3}	16 01
				3212 52
	5 Penn. stripes	202^{3}	9^{2}	19 26
	5 J. C. ticks	210^{2}	8	16 84
	7 G. F. C. R. brn. sheetings	248^{2}	12^{2}	31 06
	6 Utica W	199^{1}	12^{2}	24 91
	10 Cabot J. " drills	400	8^{2}	34 00
	10 Stark	300^{3}	7^{2}	22 55
Case 112	25 ps. blankets, Tweed		200	50 00
	10 " plain		262^{2}	26 25
	5 C. M. & Co., red flannels	181	10	18 10
Case 113	6 twill blankets, 4 wrappers		125	5 00
			450	27 00
	16 plain "		375	60 00
	11 Tweed "		375	41 25
	4 wrappers		125	5 00
62	1 bale upland stripes	710	7^{2}	53 25
	10 crash	250	10	25 00
	20 Am. diaper		125	25 00
	16 Sco. "		100	16 00
	10 " "		125	12 50
	10 " "		200	20 00
	10 " "		162^{2}	16 25
	20 " "		155	31 00
	8 Stark brn. sheeting	318^{1}	7	22 28
	8 boxes 10*s*. straps 32*s*.	.....	.....	14 00
	1 blk. beaver	22	200	44 00
	1 " cloth	13^{1}	337^{2}	44 72
	1 " doeskin	33	112^{2}	37 13
	1 " "	22^{2}	150	33 75
	1 sattinett	28^{3}	77^{2}	22 28

Account—Continued.

	3 wool scarfs		350	10 50
	4 Watertown shawls		325	13 00
	3 wool long "		550	16 50
	10 Sco. "		550	55 00
	6 B. S. "		300	18 00
	6		475	28 50
	4 " "		750	30 00
	3 mourning "		675	20 25
	3 white "		650	19 50
539	2 alpaca "	68^{1}	32^{2}	22 18
2583	1 "	29	40	11 60
				4255 03
2868	2 alpaca	68^{2}	25	17 13
558	4 parametta	157^{2}	37^{2}	56 83
	1 blk. silk	75^{2}	112^{2}	84 94
	1 6800	$75\frac{5}{8}$	90	67 06
	4 gingham	154^{1}	10^{2}	16 20
222	2 print	79^{3}	7	5 58
189	2 "	71^{3}	6^{2}	4 67
150	4 "	122	8	9 76
93	3 "	90^{2}	9^{2}	8 60
157	23 "	801	9	72 09
96	2 " 76 *a* 724	66^{1}	9^{2}	6 29
218	10 "	371^{3}	5^{3}	21 38
201	2 "	58	9	5 22
68	2 "	59^{2}	9^{2}	5 65
	1 "	31^{3}	6	1 90
164	2 "	72^{3}	8^{1}	6 00
138	2 "	69^{3}	8^{1}	5 75
107	6 "	220^{3}	8^{1}	18 21
	2 Stark bro. sheeting, live	79^{1}	7	5 55
	Boxes 20*s.*; straps 4*s*			3 00
				4,677 73
	Add errors			1 95
	Insurance Dunkirk to St. Paul $5,266, at $2\frac{1}{8}$			4,679 68 111 90
				4,791 58

No. 5.

H. B. CLAFFIN,
WM. H. MILLEN.

JOHN LIVINGSTON, *Comm'r.*

Account—Continued.

	Forward				1,645 91
1303	6 bro. linen covers, 8-4			112[2]	6 75
1331	6 " 7-4			87[2]	5 25
	6 "			45	2 70
2	6 "			75	4 50
2	12 " 8-10			55	6 60
	12 " 8-10			37[2]	4 50
7	2 Swiss muslin		32	35	11 20
6	2 "		32	30	9 60
5	3 "		48	26[2]	12 72
4	3 "		48	22[2]	10 80
2	3 "		48	18	8 64
11	1 bishop lawn		16	35	5 60
36	1 "		16	28[2]	4 56
6	1		16	22[2]	3 60
39	2 book muslin		24	15	3 60
43	2 "		24	20	4 80
30	2 "		24	25	6 00
54	2 India mull		24	25	6 00
16	2		24	18	4 32
C. 51	2 jacconet		40	15	6 00
C. 53	2 "		40	16[2]	6 60
591	3 "		60	18	10 80
503	3 "		60	22[2]	13 50
607	3 "		60	25	15 00
C. 65	2 "		40	30	12 00
C. 71	1 "		20	37[2]	7 50
27	3 stripe camb		48	12[2]	6 00
26	2 "		24	20	4 80
16	1 chk. camb		16	30	4 80
14	1 "		16	25	4 00
31	1 "		16	25	4 00
12	2 "		32	20	6 40
10	5 "		80	16[2]	13 20
28	2 "		32	15	4 80
7	5 "		80	11	8 80
1343	1 bro. linen damask		21[1]	50	10 63
1373	1 " "		22	85	18 70
1393	1 " "		23[2]	95	22 33
1367	1 " "		20[1]	67[2]	13 67
1395	1 " "		19[3]	110	21 72
	Forward				1,982 90
1342	1 bro. linen damask		20	42[2]	8 60
547	1 Irish linen		27	70	18 90

905	3 Irish linen	83 2	60	50 10
361	3 "	40	30	12 00
205	1 "	26	37 2	9 75
226	1 "	25	45	11 25
228	1 "	26	50	13 00
	3 9-4 Allendale blead	106	27	28 62
	3 16-4 "	97 1	29	28 20
	10 Dwigho, E "	346 1	10 2	36 36
	5 water twist "	163	17 2	28 53
	3 N. York "	101	14 2	14 65
	5 pillow-case "	184 3	9	16 63
	10 Waverley "	391	8 3	34 21
	10 4-4 Lawrence "	317 2	8 3	27 78
	3 42 in. James "	111	13 2	14 99
	3 5-4 " "	110 3	14	15 51
	5 blea. drill	214	7 3	16 58
	10 Cabot "	427 2	8 2	36 34
	10 paper cambric	200	9	18 00
	30 col'd "	1031	6 2	67 02
	3 col'd drills	129 3	8 1	10 70
164	2 de laines	68	11 2	7 82
192	3 "	111	12	13 88
	2 fig'd cloaking	43	36 2	15 69
	1 "	25	25	6 25
	2 "	49 1	31	15 27
	2 "	48 1	27 2	13 27
166	2 de laines	75 2	11	8 31
	1 green tuet. flannel	57 2	35	18 03
	1 blue "	52	30	15 60
	1 " "	53 1	35	18 64
	1 mixed "	52 3	35	18 46
	1 " "	56	27 2	15 40
	2 sct. wool "	49 2	32 2	16 08
	3 " "	76	30	22 80
	3 " "	75	27 2	20 63
	Forward			2,726 75

Account—Continued.

NEW YORK, *Oct.* 23*d*, 1852.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

320	2 doz.	mixed hose	225	4 50
185	1 1/12	do.	400	7 67
216	3	do.	450	13 50
10	2	do.	350	7 00
10	1	white hose		3 50
61	1	merino shirts		14 50
26	1	do.		11 00
	2	do. N. B.	750	15 00
152	2	comforters	325	6 50
	10	mixed half-wool hose	250	25 00
				108 17
	Box 5*s.*; strap 2*s.*			1 25
	1 bale bro. linen		38² 62²	2 50
				111 92
	Deduct 2½ per cent. on $903 50			22 58
				89 34

No. 6. (Duplicate.)
Oct. 23, '52, $89 34.

H. B. CLAFLIN,
WM. H. MELLEN.
JOHN LIVINGSTON, *Comm'r.*

NEW YORK, *Jan.* 18, 1853.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

	1 blk. silk	49 3/8	85	41 96
	1 "	50 93/100	95	48 38
	1 "	26 7/8	110	29 56
	1 doz. kid gloves			8 50
	1 " col'd Bagen			10 25
	4 asst'd	6	50	26 00
	2 sco. red long shawls	5	50	16 50
63, 126	4 Bay State	3	75	15 00
72, 144	3 "	4	37²	13 13
	5 lan. ginghams	186²	11	20 52

Account—Continued.

165	4 prints	120	12^{2}	15 00
157	10 "	343^{1}	9	30 89
	1 linen cambric	8	150	12 00
564	2 white linen	24^{3}	30	7 42
293	1 "	25^{2}	40	10 20
524	1 "	28^{1}	60	16 95
377	2 linen lawn	25^{1}	45	11 36
	3 Pongee hkfs	3	50	10 50
	2 "	4	00	8 00
	2 "	4	25	8 50
	2 "	4	50	9 00
2085	4 doz. doylies	1	12^{2}	4 50
	2 collars	2	25	4 50
35	6 lbs. Marshall's thread		90	5 40
40	6 " "	1	04	6 24
50	6 " "	1	23	7 38
	20 doz. Coates' "		28	5 60
	6 " gray wool half-hose	2	75	16 50
24	5 " cott	1	75	8 75
162	5 " white	2	15	10 75
5	2 " cash. gloves	2	37^{2}	4 75
				442 99
3	2 doz. cash. gloves	2	62^{2}	5 25
18	1 " Berlin "			4 25
	3 C. M. & C. bro. flannels to fill	95	9	8 55
	Strapping			25
				462 29

No. 7.
Jan. 18, $462 29.

H. B. CLAFLIN,
WM. H. MELLEN.
JOHN LIVINGSTON, *Comm'r.*

NEW YORK, *March* 30, 1853.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co.

375	6 pcs. prints	214	12	25 68
365	3 "	106^{1}	9^{2}	10 09
374	2 "	70_{2}	10^{2}	7 40
366	2 "	72_{3}	10^{2}	7 64

Account—Continued.

335	2 pcs. prints	69 9^3	6 73
303	6 "	205^3 9^3	20 06
353	4 "	153^2 13	19 96
356	3 "	112 10^2	17 76
358	2 "	75^3 10^2	7 96
376	4 "	142 10^2	14 91
278	4 "	132^1 10^2	13 88
40	3 "	97^3 10	9 78
360	3 "	109 10^2	11 45
1256	2 doz. napkins	175	3 50
521	2 "	200	4 00
522	2 "	225	4 50
668	2 doz. white linen	54 40	21 60
456	2 " "	27^3 50	13 88
571	2 " "	28 60	16 80
			231 58

No. 8. (Duplicate.)
Curran & Lawler. Mar. 30, 1853.
March 30, '53, $231 58.

H. B. CLAFLIN,
WM. H. MELLEN.
JOHN LIVINGSTON, *Comm'r.*

NEW YORK, *April 4th*, 1853.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

	1 bro. linen drill	22^2 25	5 63
	1 " "	49^1 36	17 73
1817	1 " "	48^1 25	12 06
	1 white "	25 55	13 75
	1 striped "	20 40	8
	1 satin stripe	35^3 30	10 73
	2 " "	75^1 14	10 54
	1 plaid gambroon	27 37^2	10 13
	1 bl'k sattinett	30 75	22 50
	10 Law A. long cloth	312 8^1	25 74
	10 Rutgers "	351^1	35 13
	10 Dwight E. "	348^2 10^3	37 47

Account—Continued.

	5 Patterson long cloth	166² 10	16 65
	5 Wamsutta "	45 13	27 95
	5 bl'k cambric "	177 7²	13 27
	2 col'd drill	60 8²	5 10
	10 blue	420 9²	39 90
	6 Atlantic O. bros	188 8¹	15 04
	6 Pocasset	240³ 9	21 67
	4 Boat W	123¹ 11²	14 15
	6 Oxford denims	252 9²	23 94
	6 Ospray S. stripes	244¹ 9	21 98
	1 Uncass "	34¹ 10	3 42
	4 St. Ham "	123² 11²	14 18
	2 Mohaw ticks	97¹ 8²	8 26
	2 B. & C. "	76³ 11²	8 83
	4 Union "	161 13	20 93
	1 A. C. A. "	41 16²	6 76
	4 U. S. A. "	189 10³	20 32
	4 ¼ Turkey red	152² 12²	19 06
	2 " "	50² 20	10 10
	2 plain prints	104 14	14 56
			535 48
53	6 Turkey red print	171 18	30 78
	1 " "	29³ 21	6 25
	1 " "	29⅝ 21	6 22
1512	2 " "	58 24	13 92
	2 linen gingham	81² 12²	10 19
	2 " "	89¹ 20	17 85
	3 berege de laine	106 15	15 90
	1 " "	35² 18	6 39
	1 May "	34² 32²	11 21
419	4 furniture prints	182² 4²	8 21
442	6 " "	248³ 6¹	15 55
440	2 " "	70³ 8	5 66
436	3 " "	98 8²	8 33
956	2 Maz. "	60 10²	6 30
412	3 prints	100³ 9²	9 57
410	4 "	134³ 9	12 13
233	5 B. & O. prints	173² 9	15 61
588	4 fancy "	154³ 8²	13 15
405	5 " "	179¹ 6²	11 65
405	4 prints	145 6²	9 43
420	7 "	264² 7²	19 84

Account—Continued.

376	4 prints.....	136[1] 10	13 62
415	3 "	105[3] 10	10 58
333	4 "	134 9	12 06
436	8 "	292[1] 10	29 22
421	5 "	160[3] 10	16 08
425	3 "	103[3] 12[2]	12 97
366	2 "	72 10[2]	7 56
431	4 "	140[1] 10[2]	14 73
422	7 "	244 10[2]	25 62
423	3 "	101 10	10 10
401	5 "	182[1] 9[2]	17 31
400	10 "	345 9[2]	32 78
	4 Pocasset bro. sheeting to fill...	158[3] 9	14 29
	5 cases, 10*s.* ea., strapping 10*s*.....	.....	7 50
			1,014 04

No. 9. (Duplicate.)

H. B. CLAFLIN,
WM. H. MELLEN.
JOHN LIVINGSTON,
Comm'r.

CURRAN & LAWLER,
Ap'l 14, '53.

NEW YORK, *Apr.* 15, 1853.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

	1 K'y jean.....	32[2] 22[2]	7 31
	1 " "	37 25	9 25
	1 Sharron bl'd	34[2] 9	3 11
	5 Nankeen	110	5 50
	5 "	80	4 00
	2 pl'd sum. stuff.....	81 14	11 34
	2 Ripker	63[1] 20	12 65
	3 Caspian.....	90[2] 16[2]	14 93
	5 col'd cambric.....	184 7[2]	13 80
	2 4/4 Blay. linen.....	61[2] 17	10 46
	1 " "	26 28	7 28
401	1 " "	30 15	4 50
1806	1 " "	26[2] 22[2]	5 96

Account—Continued.

1850	2 Blay. linen.....	53 18	9 54
1801	50 doz. Coates' cott.....	45	22 50
	Strapping.....	.....	25
			$142 38

No. 10. (Duplicate.)

H. B. CLAFLIN,
WM. H. MELLEN.
JOHN LIVINGSTON,
Comm'r.

April 15, '53.—$142 38.

NEW YORK, *April* 16, 1853.

Messrs. Curran & Lawler bought of Claflin, Mellen & Co., importers, &c.

2 bales Wanchusetts bro. sheetings—			
3586.....	805		
3584.....	795		
	1600	7³	124

No. 11.

H. B. CLAFLIN,
WM. H. MELLEN.

Certified by

JOHN LIVINGSTON,
Comm'r.

April 16, $124 00.

(The foregoing endorsed :)

Returned, opened by me, and filed March 5, 1855.

GEO. W. PRESCOTT, *Clerk.*

Territory of Minnesota, Clerk's Office District Court, 2d district, county of Ramsey.

I, Geo. W. Prescott, clerk of the above entitled court, hereby certify the foregoing to be a true copy of the original depositions and exhibits attached, used on the trial of the cause therein entitled in said court, and offered in evidence on said trial, which original deposition is now on file in my office.

In testimony whereof I have hereunto set my hand and [SEAL.] affixed the seal of said court, at St. Paul, in said county, this 12th day of January, A. D. 1856.

GEO. W. PRESCOTT, *Clerk.*